



Susan Montee, JD, CPA

MISSOURI STATE AUDITOR



[Home](#) [Audit Reports](#) [Subscribe](#) [About Us](#) [Employment](#) [Fiscal Notes](#) [Bond Registration](#)
[Contact Us](#) [Property Tax Forms](#) [Local Government](#) [Media Information](#) [State Home Page](#)



Fiscal Notes Prepared by the Missouri State Auditor's Office in 2006

<u>Fiscal Note Number</u>	<u>Date Received</u>	<u>Fiscal Note Description</u>	<u>Date Submitted to Secretary of State</u>
06-01	1/12/06	Proposed Constitutional Initiative Petition - Tobacco Tax and Medicaid Reform	2/14/06
06-02	1/13/06	Proposed Constitutional Initiative Petition - Tobacco Tax and Medicaid Reform	2/15/06
06-03	1/27/06	Proposed Constitutional Initiative Petition - Tobacco Tax and Medicaid Reform	2/15/06
06-04	1/30/06	Proposed Constitutional Initiative Petition - Eminent Domain	Withdrawn by Petitioner
06-05	1/30/06	Proposed Constitutional Initiative Petition - Eminent Domain	Withdrawn by Petitioner
06-06	2/8/06	Proposed Constitutional Initiative Petition - Eminent Domain	Withdrawn by Petitioner
06-07	2/9/06	Proposed Constitutional Initiative Petition - Eminent Domain - Version 2	3/13/06
06-08	2/9/06	Proposed Statutory Initiative Petition - Minimum Wage - Version 1	Withdrawn by Petitioner
06-09	2/9/06	Proposed Statutory Initiative Petition - Minimum Wage - Version 2	Withdrawn by Petitioner
06-10	2/9/06	Proposed Statutory Initiative Petition - Minimum Wage - Version 3	Withdrawn by Petitioner
06-11	2/9/06	Proposed Statutory Initiative Petition - Minimum Wage - Version 4	Withdrawn by Petitioner
06-12	2/9/06	Proposed Constitutional Initiative Petition - Eminent Domain - Version 2	3/9/06
06-13	2/10/06	Proposed Constitutional Initiative Petition - Eminent Domain	Withdrawn by Petitioner
06-14	2/14/06	Proposed Constitutional Initiative Petition - Eminent Domain	3/16/06
06-15	2/17/06	Proposed Constitutional Initiative Petition - Eminent Domain - Version 2	3/16/06
06-16	2/21/06	Proposed Statutory Initiative Petition - Minimum Wage - Version 5	3/9/06
06-17	2/21/06	Proposed Constitutional Initiative Petition - State Spending	Withdrawn by Petitioner
06-18	2/27/06	Proposed Constitutional Initiative Petition - Cloning and Human	3/28/06

Engineering

06-19	3/1/06	Proposed Constitutional Initiative Petition - State Spending	3/31/06
06-20	3/15/06	Proposed Constitutional Initiative Petition - Economic Development	4/17/06
06-21	3/15/06	Proposed Constitutional Initiative Petition - Recall of Elected Officials	Rejected by Attorney General's Office
06-22	4/11/06	Proposed Constitutional Initiative Petition - Recall of Elected Officials - Version 2	5/12/06
06-23	6/7/06	House Joint Resolution No. 55 - Public Officials	7/10/06
06-24	6/7/06	Senate Joint Resolution No 26 - Veterans' Organizations	7/10/06
06-25	6/19/06	Referendum Petition for House Bill 1900 - Campaign Finance	7/12/06



For viewing full audit reports, please download the Acrobat Reader.

[Top of Page](#) [Contact Us](#) [Privacy Policy](#) [Links](#)

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-01r)

Subject

Initiative petition for constitutional amendment from Robert Hess concerning tobacco taxes and Medicaid. (Received January 12, 2006)

Date

February 10, 2006

Description

This initiative petition would amend Article IV of the Missouri Constitution by adding Section 37(b). The initiative petition provides that monies collected from an additional tax of four cents per cigarette and twenty percent of the manufacturer's invoice price before discounts and deals on other tobacco products will be credited to and placed in the Healthy Future Trust Fund within the state treasury.

The tax revenue will be deposited into two accounts in the Healthy Future Trust Fund (HFTF); 17.5 percent to the Tobacco Use Prevention, Education, and Cessation Account and 82.5 percent to the Health Care Access and Treatment Account. The taxes are to be levied and collected as provided by law.

Moneys deposited into the Tobacco Use Prevention, Education, and Cessation Account will be used to fund a comprehensive statewide tobacco control program. To ensure effective funding allocations of the moneys in the account, at least fifteen percent of the moneys must be appropriated for mass media public education and counter-marketing programs, at least fifteen percent of the moneys must be appropriated for community programs to reduce tobacco use, at least five percent must be appropriated for surveillance and evaluation relating to all expenditures and uses of the funds, and at least fifteen percent but no more than thirty percent of the moneys must be appropriated for cessation programs including any funds appropriated for tobacco use cessation programs for Missouri Medicaid beneficiaries.

An oversight committee, appointed by the Governor with the advice and consent of the senate, will be created to assist the department of health and senior services, the department of public safety, and the department of mental health in developing, implementing, and maintaining a strategic plan, in monitoring the use of funds, and in assessing the efficacy of programs funded through the tobacco use prevention, education, and cessation account.

Moneys deposited into the Health Care Access and Treatment Account will be used to provide medically necessary health care services for individuals with incomes that are two hundred percent or less of the federal poverty guidelines, including services provided through the Medicaid or State Children's Health Insurance Programs. Thirty five and one-

quarter percent of the moneys in the account shall be appropriated to the Department of Social Services (DSS) for this purpose. The DSS shall give preference in favor of medical programs and services for individuals with medical conditions associated with tobacco use or secondhand smoke, and in favor of new or additional Medicaid benefits or services for custodial parents, the aged, and individuals with medical and mental health disabilities.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments for primary care and specialist physician services rendered to Missouri Medicaid beneficiaries. Thirty five and one-quarter percent of the moneys in the account shall be appropriated to the DSS for this purpose. The DSS shall establish, to the extent funds are available, a Medicaid physician fee schedule that is comparable to the Medicare physician fee schedule.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments to safety net clinics. Thirteen percent of the moneys in the account shall be appropriated to the DSS for this purpose. The DSS shall calculate the supplemental payment to each safety net clinic based on the number of ambulatory visits provided during the prior twelve month period to uninsured Missourians with annual household incomes that are two hundred percent or less of the federal poverty guidelines.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments to trauma centers and hospital emergency departments for facility and physician services rendered to Missouri Medicaid beneficiaries and uninsured Missourians. Fifteen and one-quarter percent of the moneys in the account shall be appropriated to the DSS for this purpose. At least fifty-five percent of the moneys appropriated for supplemental payments to trauma centers and hospital emergency departments shall be used for payments to compensate Level I designated trauma centers for their unreimbursed costs of treating Missouri Medicaid beneficiaries and uninsured Missourians.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments for emergency ambulance services provided to Missouri Medicaid beneficiaries. One and one-quarter percent of the moneys in the account shall be appropriated to the DSS for this purpose.

In calculating the payments to health care providers out of the Health Care Access and Treatment Account, the DSS shall ensure that total payments do not exceed the cost of delivering the services. The DSS may seek approval from the federal government and take all other necessary steps to qualify the payments for federal financial participation through the Missouri Medicaid program.

The director of revenue, on a monthly basis, shall determine whether the tax imposed by this section has caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund. If a

reduction in the amount of moneys collected and deposited into any of those funds has been caused, an amount equal to the amount shall be transferred from the HFTF to the appropriate fund or funds. The aggregate amount transferred to the fair share fund, the health initiatives fund, and the state school moneys fund from the health justice trust fund for any month shall not exceed three percent of the total moneys collected.

The State Auditor will perform an annual audit of the funds and programs established, which include an evaluation of whether pre-existing funds for programs or initiatives has been reduced because of the new funding for such purposes provided through the HFTF or any of its accounts. Every three years, the State Auditor will prepare a comprehensive report assessing the work and progress of the programs established under this section. Such assessment report shall analyze the impact of the programs, grants, and contracts performed.

The additional revenue provided by section 37(b) of this article shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution. The expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

The amendment is to be voted on in November, 2006 or at a special election called by the governor. The effective date of the amendment will be January 1, 2007, and programs described in the petition will be implemented no later than July 1, 2007.

Public comments and other input

The State Auditor's Office received input from the Department of Revenue, the Department of Health and Senior Services, the Department of Public Safety, the Department of Mental Health, the Department of Social Services, the State Treasurer, and the Governor's Office.

Assumptions

According to officials at the Department of Revenue (DOR), this legislation would require a new system requiring 2 contract programmers 10 months to complete, for a total cost of \$173,000 (3,460 hrs. @ \$50 per hr.).

Taxation would need to revise forms and 230 notification letters to licensees would also need to be mailed (this cost would be minimal and would be absorbed by the department). An additional 5,000 to 6,000 notification letters may need to be sent to tobacco retailers for a cost of \$2,490 (\$0.025/letters and \$0.39/postage for 6,000 letters). We would collect the additional tax with existing staff.

Officials from the DOR did express some concerns. Section 5 (1) states "...the actual costs of collecting the new tax shall be paid from the Healthy Future Trust Fund"... It is not clear how Taxation is supposed to separate the cost of collection of this additional tax from the cost of collection of the current tax. This would create additional costs in the

collection process. Taxation requires a time frame in which the distribution is to be made.

Section 5 (2) states that DOR is to refund moneys overpaid or erroneously paid. Currently, the Taxation Bureau only refund for returns to the manufacturer or for stamps that are returned to the director. Are the same refund standards to be applied?

Section 5 (3) requires Taxation to make a monthly comparison to determine if the tax increase caused a reduction in the amount of moneys collected and deposited into the fair share fund, school fund, and health initiatives fund. It is unclear how the comparison is to be made. Is the amount compared to the prior year, the prior month, or the year to date totals? What proof is to be used in order to justify our figures? What is the due date of the report? How are amended reports, for prior periods, accounted for?

Section 10 states "...products in the possession or under the control of any *dealer* or *distributor*...." A definition for *dealer* or *distributor* has not been provided. Taxation recommends the definitions found in this Constitutional amendment be consistent with the definitions found in Chapter 149, RSMo.

Clarification is needed in this legislation to limit "floor stocks". There is a concern with the wording in Section 10, as is, that stockpiling and huge windfalls will take place for those who have the cash flow to purchase large amounts of stamps before the increase becomes effective. If the term "dealer" is changed to "retailer" and if "wholesaler" is also added, then we would have anyone who has wholesale inventory, plus the licensed distributor and the retailer who might have inventory on the shelf.

If the language is not changed to say "retailer" and "wholesaler" is not added, the wording as follows is recommended to aide in "floor stocks" taking place, but will only affect licensed cigarette wholesalers. Without this language, wholesalers would see 80 cents a pack windfall for stamps purchased before the tax became effective. Retailers would also reap an 80 cents a pack windfall for all existing inventory at the time of the increase, unless this language is also extended to cover retailers.

Taxation currently does not require retailers to be licensed. How would DOR be expected to track floor stocks? When is the tax on floor stocks to be paid? Are there any penalties for late payment or nonpayment?

Officials from the Department of Health and Senior Services (DHSS) indicated that the estimated annual revenue from the tax proceeds from sales of cigarettes and tobacco is anticipated to be a minimum of \$351 million to be deposited in the Healthy Future Trust Fund. Seventeen and one-half percent (\$61.425 million) of the net proceeds shall be placed in the Tobacco Use Prevention, Education and Cessation Account to be appropriated to DHSS, DMH and DPS. Eighty-two and one-half percent of the net proceeds shall be placed in the Health Care Access and Treatment Account. Because the legislation is effective January 1, 2007, DHSS assumes the revenue collections for the first year to be 5/12 of the yearly estimated revenue due to the lag in revenue collection.

DHSS assumes the revenue levels will not decline substantially for the first three years. However, through the combination of higher prices on tobacco products and effective cessation and prevention programs, an incremental decrease in the tax revenues is expected over time as fewer tobacco products are purchased. As revenues deposited in the Tobacco Use Prevention, Education and Cessation Account decrease, the program expenditures will have to be adjusted accordingly. Voter approval every six years must be obtained to continue supporting the program.

Further, Subsection 6.(2) states that on a monthly basis the director of revenue shall determine whether the tax imposed by the section has caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund or the state school moneys fund under chapter 149 RSMo. If a reduction in the amount collected has occurred, moneys from the HFTF shall be transferred to the appropriate fund. Because DHSS cannot determine the amount that would be transferred, for the purposes of this estimate, DHSS has assumed there would be no transfer of funds. However, in all likelihood, there would be a transfer of moneys from this fund.

Monies deposited in the Tobacco Use Prevention, Education, and Cessation Account shall be appropriated to DHSS, DPS and DMH for funding a statewide comprehensive tobacco control program that is consistent with the CDC guidelines and determined by DHSS to be effective to prevent and reduce tobacco use, reduce exposure to secondhand smoke and identify and eliminate disparities related to tobacco use. Following is an estimate of how funds would be allocated by component in accordance to the CDC Best Practices for Comprehensive Tobacco Control Programs (August 1999) and the proposed constitutional amendment.

DHSS Community programs (minimum of 15% required by section 7 (1).)	\$ 9,600,000
DHSS Chronic disease programs	\$ 3,000,000
DHSS School programs	\$ 5,000,000
DMH and DPS Education and Enforcement programs	\$ 3,500,000
DHSS Statewide programs	\$ 4,400,000
DHSS Counter-marketing programs (minimum of 15% per 7 (1)).	\$10,900,000
DHSS Cessation programs (minimum of 15% and no more than 30% per 7 (1)) including required 10% (\$6,142,500) to Medicaid per 7.	\$18,400,000
DHSS Surveillance and Evaluation* (minimum of 5% per 7 (1); 10% of program total per CDC Best Practices)	\$ 5,300,000
DHSS Administration (this is based on a full year of operation, some of these costs are one-time)	\$ 1,258,340
Total	\$61,358,340

*Includes research on the effects of the use of tobacco

New personnel for administration of the Comprehensive Tobacco Use Prevention and Cessation Program at DHSS would require 13 additional full-time employees. Expense and Equipment costs for the new employees include standard one-time costs for computer and office equipment and standard ongoing costs for travel, communication, rent,

utilities, network, software, and office supplies. Other fund costs include \$60,100,000 in interagency transfers and grants and contracts.

Officials from the Department of Public Safety (DPS) indicated the need for an additional twenty agents and five clerical employees in order to implement the enforcement components of the Center for Disease Control's (CDC) Best Practices for the Comprehensive Tobacco Control Program. For tobacco access laws to be actively enforced, universal licensure of tobacco outlet sources is necessary. Best practices include licensing, conducting frequent retailer controlled buys to identify retailers who sell tobacco products to minors (four per outlet per year), imposing a graduated series of civil penalties on the retailer, including license revocation, and eliminating tobacco vending machines and self-service displays. The Division already does controlled buys, however to meet best practice guidelines, buys would have to be increased by 75%; graduated civil penalties are already in place, although they would need to be more severe; and restrictive tobacco vending machine laws have been enacted, reducing the incentive for vendors to have them. The CDC has estimated that to properly enforce tobacco laws and implement the best practices model in Missouri, it would take between \$2,475,000 - \$4,650,000 annually. Many of the best practices for enforcement are minimally in place within the Division, thus, the Division estimates enhancing the effort to meet best practices could be accomplished for less than \$2,000,000 a year.

The Division estimates that with the comprehensive program in place, compliance with the youth-access to tobacco laws will increase dramatically, resulting in a reduction of the number of American teenagers taking up daily smoking. One in three teens who are regular smokers will eventually die of smoking-related causes. The implementation of CDC's Best Practices for the Comprehensive Tobacco Control Program, based on evidence-based analysis of comprehensive State tobacco control programs does result in a reduction of tobacco use. Tobacco use is the single most preventable cause of death and disease in our society.

The Division anticipates a significant number of arrests, of minors and of clerks who sell to minors. By way of comparison, last year the Division made over 1,700 liquor arrests of minors. Last year the Division also took administrative action in 459 cases against liquor retailers for various violations, mostly sales to minors. Licensing of tobacco vendors, will result in similar action against tobacco establishments, and we anticipate even more tobacco cases than liquor cases. This is largely due to the fact we will increase our controlled buy operations, within the guidelines of the CDC's Best Practices for the Comprehensive Tobacco Control Program.

There will be a significant amount of work associated with the violation reports. The Division must track each controlled buy, arrest, violation, and indeed all enforcement work, on their computer system, and that will involve a tremendous amount of daily data entry. The Division will also evaluate tobacco-training programs of retailers throughout the state, which means they may receive over 10,000 program synopses annually. The Division must report monthly under the Uniform Crime Reporting system to the Highway Patrol with respect to tobacco arrests. Data entry to the tobacco database requires a

manual entry and file creation for each and every tobacco vendor in the State, again a tremendous data entry task. The Division will send a congratulatory “attaboy” letter to each establishment that passes a controlled buy operation. The Division will also keep a hard file for every tobacco establishment that we cite, for administrative disciplinary action purposes.

The five tobacco clerks will be absolutely essential for the tasks summarized above under tobacco enforcement, including the data entry for the database, arrests and violation reports; tracking of server training; “attaboy” letters; file maintenance; clerical support for the Tobacco Program Manager; and Uniform Crime Reporting to the Highway Patrol. Although the Division will apportion work among the five, they anticipate needing one full-time clerk to handle the tobacco docket; one full-time clerk for clerical support of the Tobacco Program Manager and other central office management; and one full-time clerk for file management and the other clerical tasks as summarized above. Each of the two District offices will need additional clerical support for the enforcement staff associated with the tobacco enforcement program consisting of additional work involved in licensing and additional violations expected with the implementation of this program.

The estimated fiscal impact for the DPS totals \$1,049,051, \$1,521,070, and \$1,574,638, for the fiscal year 2006, fiscal year 2007, and fiscal year 2008, respectively in salaries and equipment for the additional employees.

Officials from the Department of Mental Health (DMH) indicated that projected revenues from this proposal will total approximately \$351 million.

Section 37(b).6 states that 17.5% of the net proceeds shall be credited to and placed in the Tobacco Use Prevention, Education, and Cessation account. This would equate to \$61.4 million. Section 37(b).7 states that funds deposited in the Tobacco Use Prevention, Education, and Cessation Account shall be appropriated to the Department of Health and Senior Services (DHSS), Department of Public Safety (DPS), and DMH for the sole purpose of funding a comprehensive statewide tobacco control program that is consistent with the CDC’s best practices and guidelines for tobacco control programs and is determined by DHSS to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The petition indicates at least fifteen percent of those moneys shall be appropriated for mass media public education and counter-marketing programs and community programs to reduce tobacco use. The Department assumes a portion of these funds would be appropriated to the Division of Alcohol & Drug Abuse to expand current efforts in providing public education on tobacco use for children and adults, as well as community programs to reduce tobacco use. Depending on the level of funding made available, additional program and administrative staff to expand the efforts in tobacco education to reduce tobacco use may be needed; however, it is difficult to determine the actual number of staff and operating costs until specific funding and programs have been identified.

Section 37(b).8(2) – This section refers to supplemental payments for primary care and specialist physician services rendered to Missouri Medicaid beneficiaries. The Department of Social Services shall establish, to the extent funds are available, a Medicaid physician fee schedule that is comparable to the Medicare physician fee schedule. The DMH does not administer physician services directly, unless this is a component of their program. In regards to the rate, the mental health provider system uses this option, but this is currently administered under Medicaid; therefore, the Department defers to the DSS in identifying a fiscal impact for this section. They will collaborate with the DSS in the establishment of rates for Department-related physician services which impact their clients.

Section 37(b).8(3) –The petition states that moneys deposited in the Health Care Access and Treatment Account shall be appropriated to provide additional funds for the purpose of providing supplemental payments to safety net clinics. Thirteen percent of the moneys (approximately \$37.6 million) shall be appropriated to the DSS for this purpose. The Department assumes the definition of “safety net clinics” includes both the community mental health centers and the Division of Alcohol & Drug Abuse’s Comprehensive Substance Abuse Treatment & Rehabilitation program. The DSS shall calculate the supplemental payment to each safety net clinic based on the number of ambulatory visits provided during the prior twelve month period to uninsured Missourians with annual household incomes that are 200% or less of the federal poverty guidelines. It is assumed that the definition of “ambulatory visit” includes therapists and physicians included in the mental health service delivery system. It is assumed that this definition includes services provided by the community mental health centers and through the CSTAR program. The DMH defers to the DSS for the projected fiscal impact for this section. In addition, please note that the Department assumes a minimal number of additional administrative staff may be needed to administer the requirements of this section.

Officials from the DSS – Division of Medical Services (DMS) indicated that no additional funding for staff would be needed to administer a smoking cessation program. They also indicated that in order to provide healthcare for Missourians with income less than two hundred percent of federal poverty level, it is anticipated that the additional cost would exceed \$1.2 billion. This \$1.2 billion cost refers to the total cost of medical assistance payments to cover all Missourians with incomes less than 200% of federal poverty level. The actual level of spending will reflect the revenue realized through the increase in the tobacco tax. Additional funding for staff to review and analyze the cost of medical services would be needed to administer each program.

Funds will be appropriated to provide additional funds for the purpose of establishing a physician Medicaid fee schedule that is comparable to the Medicare physician fee schedule. If the physician reimbursements were to reflect 100% Medicare rates, it is anticipated that additional cost of \$268.1 million would be realized. This figure was derived for the FY06 budget request through calculating the difference between current reimbursement for the physician program and the cost for these services at 100% Medicare rates. Additional funding for staff to analyze and establish a Medicaid fee

schedule based on appropriated funds that would be comparable to the Medicare physician fee schedule would be needed.

Funds will be appropriated to provide supplemental payments to safety net clinics for services provided to uninsured Missourians with annual incomes that are 200% or less of federal poverty level. Additional funding for staff to calculate the supplemental payment to each safety net clinic and review annual financial reports submitted by the safety net clinics would be needed.

Funds will be appropriated to provide supplemental payments to trauma centers and hospital emergency departments for services provided to Missouri Medicaid beneficiaries and uninsured Missourians. Additional funding for staff to calculate the supplemental payment to these facilities would be needed.

Funds will be appropriated to provide supplemental payments for emergency ambulance services provided to Missouri Medicaid beneficiaries. Additional funding for staff to calculate the supplemental payment for emergency ambulance services would be needed.

Changes may be needed to the DMS current billing/payment system so that the supplemental payments may be made. Additional funding may be needed for these changes.

The petition states the DSS shall seek approval from the federal government and take all other necessary steps to qualify the payments as eligible for federal financial participation through the Medicaid program. In addition to the staff needed for each program, staff will be needed to research and apply for and maintain a federal waiver. Funding for an actuarial study is also needed.

According to the DSS – Family Support Division (FSD), if this bill is enacted it will increase the Medicaid caseloads of the division. As a result, additional staff will be needed to maintain the additional caseload growth anticipated from the legislation.

The FSD assumes that the DMS will apply a preference with respect to medical programs and services for individuals with medical conditions associated with tobacco use or secondhand smoke.

The division would not see an increase in caseloads to increase Medicaid income guidelines for eligibility for custodial parents up to 200% of the federal poverty level (FPL). Since the division already covers the children of the parents up to 200%, this would only add another individual to the already existing case. The division would need additional caseworkers to cover the increased caseload to increase the income guidelines for the pregnant women, elderly and disabled population up to 200%. It is estimated that the caseloads would grow by 56,392. To cover this increased caseload, based on a standard of 315 cases per worker for the elderly and disabled population and 270 cases per worker for Pregnant Women, the Division would need an additional 231 staff (180

caseworkers, 18 supervisors, 33 clerical). The division further assumes this funding would come from the tobacco tax revenue.

The DSS – FSD estimates the cost to be \$6,911,206, \$10,219,352, and \$10,481,505 in FY 2007, FY 2008, and FY 2009, respectively.

The initiative petition requires the State Auditor to perform an annual financial audit of the funds and programs established, at an estimated annual cost of \$12,000. It also requires the State Auditor to assess the work and progress of the programs established every three years, at an estimated cost of \$32,000 every three years.

The Governor's Office indicated that the estimated revenues for the proposed tax increase are as follows:

\$ millions	FY 2007 (6 Months)	FY 2008	FY 2009	FY 2010
Cigarette Tax	197.3	397.2	399.8	402.5
Other Tobacco Tax	10.7	22.4	23.5	24.7
Hold Harmless Funds*	(6.2)	(12.6)	(12.7)	(12.8)
Net New Revenues	201.7	407.0	410.7	414.4

* Total loss to hold harmless funds is estimated to be greater than 3%.

The State Treasurer's Office did not respond to our request.

Fiscal Note Summary

Additional taxes of four cents per cigarette and twenty percent of the manufacturer's invoice price on other tobacco products generates an estimated \$351 - \$499 million annually for tobacco control programs, healthcare for low income Missourians, and payments for services provided to Missouri Medicaid beneficiaries and uninsured Missourians. Local governmental fiscal impact is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-02r)

Subject

Initiative petition for constitutional amendment from Robert Hess concerning tobacco taxes and Medicaid. (Received January 13, 2006)

Date

February 14, 2006

Description

This initiative petition would amend Article IV of the Missouri Constitution by adding Section 37(b). The initiative petition provides that monies collected from an additional tax of four cents per cigarette and twenty percent of the manufacturer's invoice price before discounts and deals on other tobacco products will be credited to and placed in the Healthy Future Trust Fund within the state treasury.

The tax revenue will be deposited into two accounts in the Healthy Future Trust Fund (HFTF); 17.5 percent to the Tobacco Use Prevention, Education, and Cessation Account and 82.5 percent to the Health Care Access and Treatment Account. The taxes are to be levied and collected as provided by law.

Moneys deposited into the Tobacco Use Prevention, Education, and Cessation Account will be used to fund a comprehensive statewide tobacco control program. To ensure effective funding allocations of the moneys in the account, at least fifteen percent of the moneys must be appropriated for mass media public education and counter-marketing programs, at least fifteen percent of the moneys must be appropriated for community programs to reduce tobacco use, at least five percent must be appropriated for surveillance and evaluation relating to all expenditures and uses of the funds, and at least fifteen percent but no more than thirty percent of the moneys must be appropriated for cessation programs including any funds appropriated for tobacco use cessation programs for Missouri Medicaid beneficiaries.

An oversight committee, appointed by the Governor with the advice and consent of the senate, will be created to assist the department of health and senior services, the department of public safety, and the department of mental health in developing, implementing, and maintaining a strategic plan, in monitoring the use of funds, and in assessing the efficacy of programs funded through the tobacco use prevention, education, and cessation account.

Moneys deposited into the Health Care Access and Treatment Account will be used to provide medically necessary health care services for individuals with incomes that are two hundred percent or less of the federal poverty guidelines, including services provided through the Medicaid or State Children's Health Insurance Programs. Thirty five and one-

quarter percent of the moneys in the account shall be appropriated to the Department of Social Services (DSS) for this purpose. The DSS shall give preference in favor of medical programs and services for individuals with medical conditions associated with tobacco use or secondhand smoke, and in favor of new or additional Medicaid benefits or services for custodial parents, the aged, and individuals with medical and mental health disabilities.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments for primary care and specialist physician services rendered to Missouri Medicaid beneficiaries. Thirty five and one-quarter percent of the moneys in the account shall be appropriated to the DSS for this purpose. The DSS shall establish, to the extent funds are available, a Medicaid physician fee schedule that is comparable to the Medicare physician fee schedule.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments to safety net clinics. Thirteen percent of the moneys in the account shall be appropriated to the DSS for this purpose. The DSS shall calculate the supplemental payment to each safety net clinic based on the number of ambulatory visits provided during the prior twelve month period to uninsured Missourians with annual household incomes that are two hundred percent or less of the federal poverty guidelines.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments to trauma centers and hospital emergency departments for facility and physician services rendered to Missouri Medicaid beneficiaries and uninsured Missourians. Fifteen and one-quarter percent of the moneys in the account shall be appropriated to the DSS for this purpose. At least fifty-five percent of the moneys appropriated for supplemental payments to trauma centers and hospital emergency departments shall be used for payments to compensate Level I designated trauma centers for their unreimbursed costs of treating Missouri Medicaid beneficiaries and uninsured Missourians.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments for emergency ambulance services provided to Missouri Medicaid beneficiaries. One and one-quarter percent of the moneys in the account shall be appropriated to the DSS for this purpose.

In calculating the payments to health care providers out of the Health Care Access and Treatment Account, the DSS shall ensure that total payments do not exceed the cost of delivering the services. The DSS may seek approval from the federal government and take all other necessary steps to qualify the payments for federal financial participation through the Missouri Medicaid program.

The director of revenue, on a monthly basis, shall determine whether the tax imposed by this section has caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund. If a

reduction in the amount of moneys collected and deposited into any of those funds has been caused, an amount equal to the amount shall be transferred from the HFTF to the appropriate fund or funds. The aggregate amount transferred to the fair share fund, the health initiatives fund, and the state school moneys fund from the health justice trust fund for any month shall not exceed three percent of the total moneys collected.

The State Auditor will perform an annual audit of the funds and programs established, which include an evaluation of whether pre-existing funds for programs or initiatives has been reduced because of the new funding for such purposes provided through the HFTF or any of its accounts. Every three years, the State Auditor will prepare a comprehensive report assessing the work and progress of the programs established under this section. Such assessment report shall analyze the impact of the programs, grants, and contracts performed.

The additional revenue provided by section 37(b) of this article shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution. The expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

The amendment is to be voted on in November, 2006 or at a special election called by the governor. The effective date of the amendment will be January 1, 2007, and programs described in the petition will be implemented no later than July 1, 2007.

Public comments and other input

The State Auditor's Office received input from the Department of Revenue, the Department of Health and Senior Services, the Department of Public Safety, the Department of Mental Health, the Department of Social Services, the State Treasurer, and the Governor's Office.

Assumptions

According to officials at the Department of Revenue (DOR), this legislation would require a new system requiring 2 contract programmers 10 months to complete, for a total cost of \$173,000 (3,460 hrs. @ \$50 per hr.).

Taxation would need to revise forms and 230 notification letters to licensees would also need to be mailed (this cost would be minimal and would be absorbed by the department). An additional 5,000 to 6,000 notification letters may need to be sent to tobacco retailers for a cost of \$2,490 (\$0.025/letters and \$0.39/postage for 6,000 letters). We would collect the additional tax with existing staff.

Officials from the DOR did express some concerns. Section 5 (1) states "...the actual costs of collecting the new tax shall be paid from the Healthy Future Trust Fund"... It is not clear how Taxation is supposed to separate the cost of collection of this additional tax from the cost of collection of the current tax. This would create additional costs in the

collection process. Taxation requires a time frame in which the distribution is to be made.

Section 5 (2) states that DOR is to refund moneys overpaid or erroneously paid. Currently, the Taxation Bureau only refund for returns to the manufacturer or for stamps that are returned to the director. Are the same refund standards to be applied?

Section 5 (3) requires Taxation to make a monthly comparison to determine if the tax increase caused a reduction in the amount of moneys collected and deposited into the fair share fund, school fund, and health initiatives fund. It is unclear how the comparison is to be made. Is the amount compared to the prior year, the prior month, or the year to date totals? What proof is to be used in order to justify our figures? What is the due date of the report? How are amended reports, for prior periods, accounted for?

Section 10 states "...products in the possession or under the control of any *dealer* or *distributor*...." A definition for *dealer* or *distributor* has not been provided. Taxation recommends the definitions found in this Constitutional amendment be consistent with the definitions found in Chapter 149, RSMo.

Clarification is needed in this legislation to limit "floor stocks". There is a concern with the wording in **Section 10**, as is, that stockpiling and huge windfalls will take place for those who have the cash flow to purchase large amounts of stamps before the increase becomes effective. If the term "dealer" is changed to "retailer" and if "wholesaler" is also added, then we would have anyone who has wholesale inventory, plus the licensed distributor and the retailer who might have inventory on the shelf.

If the language is not changed to say "retailer" and "wholesaler" is not added, the wording as follows is recommended to aide in "floor stocks" taking place, but will only affect licensed cigarette wholesalers. Without this language, wholesalers would see 80 cents a pack windfall for stamps purchased before the tax became effective. Retailers would also reap an 80 cents a pack windfall for all existing inventory at the time of the increase, unless this language is also extended to cover retailers.

Taxation currently does not require retailers to be licensed. How would DOR be expected to track floor stocks? When is the tax on floor stocks to be paid? Are there any penalties for late payment or nonpayment?

Officials from the Department of Health and Senior Services (DHSS) indicated that the estimated annual revenue from the tax proceeds from sales of cigarettes and tobacco is anticipated to be a minimum of \$351 million to be deposited in the Healthy Future Trust Fund. Seventeen and one-half percent (\$61.425 million) of the net proceeds shall be placed in the Tobacco Use Prevention, Education and Cessation Account to be appropriated to DHSS, DMH and DPS. Eighty-two and one-half percent of the net proceeds shall be placed in the Health Care Access and Treatment Account. Because the legislation is effective January 1, 2007, DHSS assumes the revenue collections for the first year to be 5/12 of the yearly estimated revenue due to the lag in revenue collection.

DHSS assumes the revenue levels will not decline substantially for the first three years. However, through the combination of higher prices on tobacco products and effective cessation and prevention programs, an incremental decrease in the tax revenues is expected over time as fewer tobacco products are purchased. As revenues deposited in the Tobacco Use Prevention, Education and Cessation Account decrease, the program expenditures will have to be adjusted accordingly. Voter approval every six years must be obtained to continue supporting the program.

Further, Subsection 6.(2) states that on a monthly basis the director of revenue shall determine whether the tax imposed by the section has caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund or the state school moneys fund under chapter 149 RSMo. If a reduction in the amount collected has occurred, moneys from the HFTF shall be transferred to the appropriate fund. Because DHSS cannot determine the amount that would be transferred, for the purposes of this estimate, DHSS has assumed there would be no transfer of funds. However, in all likelihood, there would be a transfer of moneys from this fund.

Monies deposited in the Tobacco Use Prevention, Education, and Cessation Account shall be appropriated to DHSS, DPS and DMH for funding a statewide comprehensive tobacco control program that is consistent with the CDC guidelines and determined by DHSS to be effective to prevent and reduce tobacco use, reduce exposure to secondhand smoke and identify and eliminate disparities related to tobacco use. Following is an estimate of how funds would be allocated by component in accordance to the CDC Best Practices for Comprehensive Tobacco Control Programs (August 1999) and the proposed constitutional amendment.

DHSS Community programs (minimum of 15% required by section 7 (1).)	\$ 9,600,000
DHSS Chronic disease programs	\$ 3,000,000
DHSS School programs	\$ 5,000,000
DMH and DPS Education and Enforcement programs	\$ 3,500,000
DHSS Statewide programs	\$ 4,400,000
DHSS Counter-marketing programs (minimum of 15% per 7 (1)).	\$10,900,000
DHSS Cessation programs (minimum of 15% and no more than 30% per 7 (1)) including required 10% (\$6,142,500) to Medicaid per 7.	\$18,400,000
DHSS Surveillance and Evaluation* (minimum of 5% per 7 (1); 10% of program total per CDC Best Practices)	\$ 5,300,000
DHSS Administration (this is based on a full year of operation, some of these costs are one-time)	\$ 1,258,340
Total	\$61,358,340

*Includes research on the effects of the use of tobacco

New personnel for administration of the Comprehensive Tobacco Use Prevention and Cessation Program at DHSS would require 13 additional full-time employees. Expense and Equipment costs for the new employees include standard one-time costs for computer and office equipment and standard ongoing costs for travel, communication, rent,

utilities, network, software, and office supplies. Other fund costs include \$60,100,000 in interagency transfers and grants and contracts.

Officials from the Department of Public Safety (DPS) indicated the need for an additional twenty agents and five clerical employees in order to implement the enforcement components of the Center for Disease Control's (CDC) Best Practices for the Comprehensive Tobacco Control Program. For tobacco access laws to be actively enforced, universal licensure of tobacco outlet sources is necessary. Best practices include licensing, conducting frequent retailer controlled buys to identify retailers who sell tobacco products to minors (four per outlet per year), imposing a graduated series of civil penalties on the retailer, including license revocation, and eliminating tobacco vending machines and self-service displays. The Division already does controlled buys, however to meet best practice guidelines, buys would have to be increased by 75%; graduated civil penalties are already in place, although they would need to be more severe; and restrictive tobacco vending machine laws have been enacted, reducing the incentive for vendors to have them. The CDC has estimated that to properly enforce tobacco laws and implement the best practices model in Missouri, it would take between \$2,475,000 - \$4,650,000 annually. Many of the best practices for enforcement are minimally in place within the Division, thus, the Division estimates enhancing the effort to meet best practices could be accomplished for less than \$2,000,000 a year.

The Division estimates that with the comprehensive program in place, compliance with the youth-access to tobacco laws will increase dramatically, resulting in a reduction of the number of American teenagers taking up daily smoking. One in three teens who are regular smokers will eventually die of smoking-related causes. The implementation of CDC's Best Practices for the Comprehensive Tobacco Control Program, based on evidence-based analysis of comprehensive State tobacco control programs does result in a reduction of tobacco use. Tobacco use is the single most preventable cause of death and disease in our society.

The Division anticipates a significant number of arrests, of minors and of clerks who sell to minors. By way of comparison, last year the Division made over 1,700 liquor arrests of minors. Last year the Division also took administrative action in 459 cases against liquor retailers for various violations, mostly sales to minors. Licensing of tobacco vendors, will result in similar action against tobacco establishments, and we anticipate even more tobacco cases than liquor cases. This is largely due to the fact we will increase our controlled buy operations, within the guidelines of the CDC's Best Practices for the Comprehensive Tobacco Control Program.

There will be a significant amount of work associated with the violation reports. The Division must track each controlled buy, arrest, violation, and indeed all enforcement work, on their computer system, and that will involve a tremendous amount of daily data entry. The Division will also evaluate tobacco-training programs of retailers throughout the state, which means they may receive over 10,000 program synopses annually. The Division must report monthly under the Uniform Crime Reporting system to the Highway Patrol with respect to tobacco arrests. Data entry to the tobacco database requires a

manual entry and file creation for each and every tobacco vendor in the State, again a tremendous data entry task. The Division will send a congratulatory “attaboy” letter to each establishment that passes a controlled buy operation. The Division will also keep a hard file for every tobacco establishment that we cite, for administrative disciplinary action purposes.

The five tobacco clerks will be absolutely essential for the tasks summarized above under tobacco enforcement, including the data entry for the database, arrests and violation reports; tracking of server training; “attaboy” letters; file maintenance; clerical support for the Tobacco Program Manager; and Uniform Crime Reporting to the Highway Patrol. Although the Division will apportion work among the five, they anticipate needing one full-time clerk to handle the tobacco docket; one full-time clerk for clerical support of the Tobacco Program Manager and other central office management; and one full-time clerk for file management and the other clerical tasks as summarized above. Each of the two District offices will need additional clerical support for the enforcement staff associated with the tobacco enforcement program consisting of additional work involved in licensing and additional violations expected with the implementation of this program.

The estimated fiscal impact for the DPS totals \$1,049,051, \$1,521,070, and \$1,574,638, for the fiscal year 2006, fiscal year 2007, and fiscal year 2008, respectively in salaries and equipment for the additional employees.

Officials from the Department of Mental Health (DMH) indicated that projected revenues from this proposal will total approximately \$351 million.

Section 37(b).6 states that 17.5% of the net proceeds shall be credited to and placed in the Tobacco Use Prevention, Education, and Cessation account. This would equate to \$61.4 million. Section 37(b).7 states that funds deposited in the Tobacco Use Prevention, Education, and Cessation Account shall be appropriated to the Department of Health and Senior Services (DHSS), Department of Public Safety (DPS), and DMH for the sole purpose of funding a comprehensive statewide tobacco control program that is consistent with the CDC’s best practices and guidelines for tobacco control programs and is determined by DHSS to be effective to prevent and reduce tobacco use, reduce the public's exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The petition indicates at least fifteen percent of those moneys shall be appropriated for mass media public education and counter-marketing programs and community programs to reduce tobacco use. The Department assumes a portion of these funds would be appropriated to the Division of Alcohol & Drug Abuse to expand current efforts in providing public education on tobacco use for children and adults, as well as community programs to reduce tobacco use. Depending on the level of funding made available, additional program and administrative staff to expand the efforts in tobacco education to reduce tobacco use may be needed; however, it is difficult to determine the actual number of staff and operating costs until specific funding and programs have been identified.

Section 37(b).8(2) – This section refers to supplemental payments for primary care and specialist physician services rendered to Missouri Medicaid beneficiaries. The Department of Social Services shall establish, to the extent funds are available, a Medicaid physician fee schedule that is comparable to the Medicare physician fee schedule. The DMH does not administer physician services directly, unless this is a component of their program. In regards to the rate, the mental health provider system uses this option, but this is currently administered under Medicaid; therefore, the Department defers to the DSS in identifying a fiscal impact for this section. They will collaborate with the DSS in the establishment of rates for Department-related physician services which impact their clients.

Section 37(b).8(3) –The petition states that moneys deposited in the Health Care Access and Treatment Account shall be appropriated to provide additional funds for the purpose of providing supplemental payments to safety net clinics. Thirteen percent of the moneys (approximately \$37.6 million) shall be appropriated to the DSS for this purpose. The Department assumes the definition of “safety net clinics” includes both the community mental health centers and the Division of Alcohol & Drug Abuse’s Comprehensive Substance Abuse Treatment & Rehabilitation program. The DSS shall calculate the supplemental payment to each safety net clinic based on the number of ambulatory visits provided during the prior twelve month period to uninsured Missourians with annual household incomes that are 200% or less of the federal poverty guidelines. It is assumed that the definition of “ambulatory visit” includes therapists and physicians included in the mental health service delivery system. It is assumed that this definition includes services provided by the community mental health centers and through the CSTAR program. The DMH defers to the DSS for the projected fiscal impact for this section. In addition, please note that the Department assumes a minimal number of additional administrative staff may be needed to administer the requirements of this section.

Officials from the DSS – Division of Medical Services (DMS) indicated that no additional funding for staff would be needed to administer a smoking cessation program. They also indicated that in order to provide healthcare for Missourians with income less than two hundred percent of federal poverty level, it is anticipated that the additional cost would exceed \$1.2 billion. This \$1.2 billion cost refers to the total cost of medical assistance payments to cover all Missourians with incomes less than 200% of federal poverty level. The actual level of spending will reflect the revenue realized through the increase in the tobacco tax. Additional funding for staff to review and analyze the cost of medical services would be needed to administer each program.

Funds will be appropriated to provide additional funds for the purpose of establishing a physician Medicaid fee schedule that is comparable to the Medicare physician fee schedule. If the physician reimbursements were to reflect 100% Medicare rates, it is anticipated that additional cost of \$268.1 million would be realized. This figure was derived for the FY06 budget request through calculating the difference between current reimbursement for the physician program and the cost for these services at 100% Medicare rates. Additional funding for staff to analyze and establish a Medicaid fee

schedule based on appropriated funds that would be comparable to the Medicare physician fee schedule would be needed.

Funds will be appropriated to provide supplemental payments to safety net clinics for services provided to uninsured Missourians with annual incomes that are 200% or less of federal poverty level. Additional funding for staff to calculate the supplemental payment to each safety net clinic and review annual financial reports submitted by the safety net clinics would be needed.

Funds will be appropriated to provide supplemental payments to trauma centers and hospital emergency departments for services provided to Missouri Medicaid beneficiaries and uninsured Missourians. Additional funding for staff to calculate the supplemental payment to these facilities would be needed.

Funds will be appropriated to provide supplemental payments for emergency ambulance services provided to Missouri Medicaid beneficiaries. Additional funding for staff to calculate the supplemental payment for emergency ambulance services would be needed.

Changes may be needed to the DMS current billing/payment system so that the supplemental payments may be made. Additional funding may be needed for these changes.

The petition states the DSS shall seek approval from the federal government and take all other necessary steps to qualify the payments as eligible for federal financial participation through the Medicaid program. In addition to the staff needed for each program, staff will be needed to research and apply for and maintain a federal waiver. Funding for an actuarial study is also needed.

According to the DSS – Family Support Division (FSD), if this bill is enacted it will increase the Medicaid caseloads of the division. As a result, additional staff will be needed to maintain the additional caseload growth anticipated from the legislation.

The FSD assumes that the DMS will apply a preference with respect to medical programs and services for individuals with medical conditions associated with tobacco use or secondhand smoke.

The division would not see an increase in caseloads to increase Medicaid income guidelines for eligibility for custodial parents up to 200% of the federal poverty level (FPL). Since the division already covers the children of the parents up to 200%, this would only add another individual to the already existing case. The division would need additional caseworkers to cover the increased caseload to increase the income guidelines for the pregnant women, elderly and disabled population up to 200%. It is estimated that the caseloads would grow by 56,392. To cover this increased caseload, based on a standard of 315 cases per worker for the elderly and disabled population and 270 cases per worker for Pregnant Women, the Division would need an additional 231 staff (180

caseworkers, 18 supervisors, 33 clerical). The division further assumes this funding would come from the tobacco tax revenue.

The DSS – FSD estimates the cost to be \$6,911,206, \$10,219,352, and \$10,481,505 in FY 2007, FY 2008, and FY 2009, respectively.

The initiative petition requires the State Auditor to perform an annual financial audit of the funds and programs established, at an estimated annual cost of \$12,000. It also requires the State Auditor to assess the work and progress of the programs established every three years, at an estimated cost of \$32,000 every three years.

The Governor's Office indicated that the estimated revenues for the proposed tax increase are as follows:

\$ millions	FY 2007 (6 Months)	FY 2008	FY 2009	FY 2010
Cigarette Tax	197.3	397.2	399.8	402.5
Other Tobacco Tax	10.7	22.4	23.5	24.7
Hold Harmless Funds*	(6.2)	(12.6)	(12.7)	(12.8)
Net New Revenues	201.7	407.0	410.7	414.4

* Total loss to hold harmless funds is estimated to be greater than 3%.

The State Treasurer's Office did not respond to our request.

Fiscal Note Summary

Additional taxes of four cents per cigarette and twenty percent of the manufacturer's invoice price on other tobacco products generates an estimated \$351 - \$499 million annually for tobacco control programs, healthcare for low income Missourians, and payments for services provided to Missouri Medicaid beneficiaries and uninsured Missourians. Local governmental fiscal impact is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-03)

Subject

Initiative petition for constitutional amendment from Robert Hess concerning tobacco taxes and Medicaid. (Received January 27, 2006)

Date

February 14, 2006

Description

This initiative petition would amend Article IV of the Missouri Constitution by adding Section 37(b). The initiative petition provides that monies collected from an additional tax of four cents per cigarette and twenty percent of the manufacturer's invoice price before discounts and deals on other tobacco products will be credited to and placed in the Healthy Future Trust Fund within the state treasury.

The tax revenue will be deposited into two accounts in the Healthy Future Trust Fund (HFTF); 17.5 percent to the Tobacco Use Prevention, Education, and Cessation Account and 82.5 percent to the Health Care Access and Treatment Account. The taxes are to be levied and collected as provided by law.

Moneys deposited into the Tobacco Use Prevention, Education, and Cessation Account will be used to fund a comprehensive statewide tobacco control program. To ensure effective funding allocations of the moneys in the account, at least fifteen percent of the moneys must be appropriated for mass media public education and counter-marketing programs, at least fifteen percent of the moneys must be appropriated for community programs to reduce tobacco use, at least five percent must be appropriated for surveillance and evaluation relating to all expenditures and uses of the funds, and at least fifteen percent but no more than thirty percent of the moneys must be appropriated for cessation programs including any funds appropriated for tobacco use cessation programs for Missouri Medicaid beneficiaries.

An oversight committee, appointed by the Governor with the advice and consent of the senate, will be created to assist the department of health and senior services, the department of public safety, and the department of mental health in developing, implementing, and maintaining a strategic plan, in monitoring the use of funds, and in assessing the efficacy of programs funded through the tobacco use prevention, education, and cessation account.

Moneys deposited into the Health Care Access and Treatment Account will be used to provide medically necessary health care services for individuals with incomes that are two hundred percent or less of the federal poverty guidelines, including services provided through the Medicaid or State Children's Health Insurance Programs. Thirty five and one-

quarter percent of the moneys in the account shall be appropriated to the Department of Social Services (DSS) for this purpose. The DSS shall give preference in favor of medical programs and services for individuals with medical conditions associated with tobacco use or secondhand smoke, and in favor of new or additional Medicaid benefits or services for custodial parents, the aged, and individuals with medical and mental health disabilities.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments for primary care and specialist physician services rendered to Missouri Medicaid beneficiaries. Thirty five and one-quarter percent of the moneys in the account shall be appropriated to the DSS for this purpose. The DSS shall establish, to the extent funds are available, a Medicaid physician fee schedule that is comparable to the Medicare physician fee schedule.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments to safety net clinics. Thirteen percent of the moneys in the account shall be appropriated to the DSS for this purpose. The DSS shall calculate the supplemental payment to each safety net clinic based on the number of ambulatory visits provided during the prior twelve month period to uninsured Missourians with annual household incomes that are two hundred percent or less of the federal poverty guidelines.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments to trauma centers and hospital emergency departments for facility and physician services rendered to Missouri Medicaid beneficiaries and uninsured Missourians. Fifteen and one-quarter percent of the moneys in the account shall be appropriated to the DSS for this purpose. At least fifty-five percent of the moneys appropriated for supplemental payments to trauma centers and hospital emergency departments shall be used for payments to compensate Level I designated trauma centers for their unreimbursed costs of treating Missouri Medicaid beneficiaries and uninsured Missourians.

Moneys deposited into the Health Care Access and Treatment Account will also be used to provide supplemental payments for emergency ambulance services provided to Missouri Medicaid beneficiaries. One and one-quarter percent of the moneys in the account shall be appropriated to the DSS for this purpose.

In calculating the payments to health care providers out of the Health Care Access and Treatment Account, the DSS shall ensure that total payments do not exceed the cost of delivering the services. The DSS may seek approval from the federal government and take all other necessary steps to qualify the payments for federal financial participation through the Missouri Medicaid program.

The director of revenue, on a monthly basis, shall determine whether the tax imposed by this section has caused a reduction in the amount of moneys collected and deposited into the fair share fund, the health initiatives fund, or the state school moneys fund. If a

reduction in the amount of moneys collected and deposited into any of those funds has been caused, an amount equal to the amount shall be transferred from the HFTF to the appropriate fund or funds. The aggregate amount transferred to the fair share fund, the health initiatives fund, and the state school moneys fund from the health justice trust fund for any month shall not exceed three percent of the total moneys collected.

The State Auditor will perform an annual audit of the funds and programs established, which include an evaluation of whether pre-existing funds for programs or initiatives has been reduced because of the new funding for such purposes provided through the HFTF or any of its accounts. Every three years, the State Auditor will prepare a comprehensive report assessing the work and progress of the programs established under this section. Such assessment report shall analyze the impact of the programs, grants, and contracts performed.

The additional revenue provided by section 37(b) of this article shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of this constitution. The expenditure of this additional revenue shall not be an "expense of state government" under section 20 of article X of this constitution.

The amendment is to be voted on in November, 2006 or at a special election called by the governor. The effective date of the amendment will be January 1, 2007, and programs described in the petition will be implemented no later than July 1, 2007.

Public comments and other input

The State Auditor's Office received input from the Department of Revenue, the Department of Health and Senior Services, the Department of Public Safety, the Department of Mental Health, the Department of Social Services, the State Treasurer, and the Governor's Office.

Assumptions

According to officials at the Department of Revenue (DOR), this legislation would require a new system requiring 2 contract programmers 10 months to complete, for a total cost of \$173,000 (3,460 hrs. @ \$50 per hr.).

Taxation would need to revise forms and 230 notification letters to licensees would also need to be mailed (this cost would be minimal and would be absorbed by the department). An additional 5,000 to 6,000 notification letters may need to be sent to tobacco retailers for a cost of \$2,490 (\$0.025/letters and \$0.39/postage for 6,000 letters). We would collect the additional tax with existing staff.

Officials from the DOR did express some concerns. Section 5 (1) states "...the actual costs of collecting the new tax shall be paid from the Healthy Future Trust Fund"... It is not clear how Taxation is supposed to separate the cost of collection of this additional tax from the cost of collection of the current tax. This would create additional costs in the

collection process. Taxation requires a time frame in which the distribution is to be made.

Section 5 (2) states that DOR is to refund moneys overpaid or erroneously paid. Currently, the Taxation Bureau only refund for returns to the manufacturer or for stamps that are returned to the director. Are the same refund standards to be applied?

Section 5 (3) requires Taxation to make a monthly comparison to determine if the tax increase caused a reduction in the amount of moneys collected and deposited into the fair share fund, school fund, and health initiatives fund. It is unclear how the comparison is to be made. Is the amount compared to the prior year, the prior month, or the year to date totals? What proof is to be used in order to justify our figures? What is the due date of the report? How are amended reports, for prior periods, accounted for?

Section 10 states "...products in the possession or under the control of any *dealer* or *distributor*...." A definition for *dealer* or *distributor* has not been provided. Taxation recommends the definitions found in this Constitutional amendment be consistent with the definitions found in Chapter 149, RSMo.

Clarification is needed in this legislation to limit "floor stocks". There is a concern with the wording in **Section 10**, as is, that stockpiling and huge windfalls will take place for those who have the cash flow to purchase large amounts of stamps before the increase becomes effective. If the term "dealer" is changed to "retailer" and if "wholesaler" is also added, then we would have anyone who has wholesale inventory, plus the licensed distributor and the retailer who might have inventory on the shelf.

If the language is not changed to say "retailer" and "wholesaler" is not added, the wording as follows is recommended to aide in "floor stocks" taking place, but will only affect licensed cigarette wholesalers. Without this language, wholesalers would see 80 cents a pack windfall for stamps purchased before the tax became effective. Retailers would also reap an 80 cents a pack windfall for all existing inventory at the time of the increase, unless this language is also extended to cover retailers.

Taxation currently does not require retailers to be licensed. How would DOR be expected to track floor stocks? When is the tax on floor stocks to be paid? Are there any penalties for late payment or nonpayment?

Officials from the Department of Health and Senior Services (DHSS) indicated that the estimated annual revenue from the tax proceeds from sales of cigarettes and tobacco is anticipated to be a minimum of \$351 million to be deposited in the Healthy Future Trust Fund. Seventeen and one-half percent (\$61.425 million) of the net proceeds shall be placed in the Tobacco Use Prevention, Education and Cessation Account to be appropriated to DHSS, DMH and DPS. Eighty-two and one-half percent of the net proceeds shall be placed in the Health Care Access and Treatment Account. Because the legislation is effective January 1, 2007, DHSS assumes the revenue collections for the first year to be 5/12 of the yearly estimated revenue due to the lag in revenue collection.

DHSS assumes the revenue levels will not decline substantially for the first three years. However, through the combination of higher prices on tobacco products and effective cessation and prevention programs, an incremental decrease in the tax revenues is expected over time as fewer tobacco products are purchased. As revenues deposited in the Tobacco Use Prevention, Education and Cessation Account decrease, the program expenditures will have to be adjusted accordingly.

Section 37(b) 5 (3) states that each month the director of the department of revenue shall determine whether the tax imposed by this section has caused a reduction in the amount of moneys collected and deposited in the fair share fund, the health initiatives fund, or the state school moneys fund under chapter 149, RSMo. If a reduction in the amount of moneys collected and deposited into any of those funds has been caused by the tax imposed by this section, an amount equal to the amount of moneys that were not collected and deposited into that fund or funds because of the tax imposed shall be transferred from the HFTF to the appropriate fund(s). The aggregate amount shall not exceed three percent of the total moneys collected during the same month. Because DHSS cannot determine the amount that would be transferred, for the purposes of this estimate, DHSS has assumed there would be no transfer of funds. However, in all likelihood, there would be a transfer of moneys from this fund.

Monies deposited in the Tobacco Use Prevention, Education, and Cessation Account shall be appropriated to DHSS, DPS and DMH for funding a statewide comprehensive tobacco control program that is consistent with the CDC guidelines and determined by DHSS to be effective to prevent and reduce tobacco use, reduce exposure to secondhand smoke and identify and eliminate disparities related to tobacco use. Following is an estimate of how funds would be allocated by component in accordance to the CDC Best Practices for Comprehensive Tobacco Control Programs (August 1999) and the proposed constitutional amendment.

DHSS Community programs (minimum of 15% required by section 7 (1).)	\$ 9,600,000
DHSS Chronic disease programs	\$ 3,000,000
DHSS School programs	\$ 5,000,000
DMH and DPS Education and Enforcement programs	\$ 3,500,000
DHSS Statewide programs	\$ 4,400,000
DHSS Counter-marketing programs (minimum of 15% per 7 (1)).	\$10,900,000
DHSS Cessation programs (minimum of 15% and no more than 30% per 7 (1)) including required 10% (\$6,142,500) to Medicaid per 7.	\$18,400,000
DHSS Surveillance and Evaluation (minimum of 5% per 7 (1); 10% of program total per CDC Best Practices)	\$ 5,300,000
DHSS Administration (this is based on a full year of operation, some of these costs are one-time)	\$ 1,258,340
Total	\$61,358,340

New personnel for administration of the Comprehensive Tobacco Use Prevention and Cessation Program at DHSS would require 13 additional full-time employees. Expense

and Equipment costs for the new employees include standard one-time costs for computer and office equipment and standard ongoing costs for travel, communication, rent, utilities, network, software, and office supplies. Other fund costs include \$60,100,000 in interagency transfers and grants and contracts.

Officials from the Department of Public Safety (DPS) indicated the need for an additional twenty agents and five clerical employees in order to implement the enforcement components of the Center for Disease Control's (CDC) Best Practices for the Comprehensive Tobacco Control Program. For tobacco access laws to be actively enforced, universal licensure of tobacco outlet sources is necessary. Best practices include licensing, conducting frequent retailer controlled buys to identify retailers who sell tobacco products to minors (four per outlet per year), imposing a graduated series of civil penalties on the retailer, including license revocation, and eliminating tobacco vending machines and self-service displays. The Division already does controlled buys, however to meet best practice guidelines, buys would have to be increased by 75%; graduated civil penalties are already in place, although they would need to be more severe; and restrictive tobacco vending machine laws have been enacted, reducing the incentive for vendors to have them. The CDC has estimated that to properly enforce tobacco laws and implement the best practices model in Missouri, it would take between \$2,475,000 - \$4,650,000 annually. Many of the best practices for enforcement are minimally in place within the Division, thus, the Division estimates enhancing the effort to meet best practices could be accomplished for less than \$2,000,000 a year.

The Division estimates that with the comprehensive program in place, compliance with the youth-access to tobacco laws will increase dramatically, resulting in a reduction of the number of American teenagers taking up daily smoking. One in three teens who are regular smokers will eventually die of smoking-related causes. The implementation of CDC's Best Practices for the Comprehensive Tobacco Control Program, based on evidence-based analysis of comprehensive State tobacco control programs does result in a reduction of tobacco use. Tobacco use is the single most preventable cause of death and disease in our society.

The Division anticipates a significant number of arrests, of minors and of clerks who sell to minors. By way of comparison, last year the Division made over 1,700 liquor arrests of minors. Last year the Division also took administrative action in 459 cases against liquor retailers for various violations, mostly sales to minors. Licensing of tobacco vendors, will result in similar action against tobacco establishments, and we anticipate even more tobacco cases than liquor cases. This is largely due to the fact we will increase our controlled buy operations, within the guidelines of the CDC's Best Practices for the Comprehensive Tobacco Control Program.

There will be a significant amount of work associated with the violation reports. The Division must track each controlled buy, arrest, violation, and indeed all enforcement work, on their computer system, and that will involve a tremendous amount of daily data entry. The Division will also evaluate tobacco-training programs of retailers throughout the state, which means they may receive over 10,000 program synopses annually. The

Division must report monthly under the Uniform Crime Reporting system to the Highway Patrol with respect to tobacco arrests. Data entry to the tobacco database requires a manual entry and file creation for each and every tobacco vendor in the State, again a tremendous data entry task. The Division will send a congratulatory “attaboy” letter to each establishment that passes a controlled buy operation. The Division will also keep a hard file for every tobacco establishment that we cite, for administrative disciplinary action purposes.

The five tobacco clerks will be absolutely essential for the tasks summarized above under tobacco enforcement, including the data entry for the database, arrests and violation reports; tracking of server training; “attaboy” letters; file maintenance; clerical support for the Tobacco Program Manager; and Uniform Crime Reporting to the Highway Patrol. Although the Division will apportion work among the five, they anticipate needing one full-time clerk to handle the tobacco docket; one full-time clerk for clerical support of the Tobacco Program Manager and other central office management; and one full-time clerk for file management and the other clerical tasks as summarized above. Each of the two District offices will need additional clerical support for the enforcement staff associated with the tobacco enforcement program consisting of additional work involved in licensing and additional violations expected with the implementation of this program.

The estimated fiscal impact for the DPS totals \$1,049,051, \$1,521,070, and \$1,574,638, for the fiscal year 2006, fiscal year 2007, and fiscal year 2008, respectively in salaries and equipment for the additional employees.

Officials from the Department of Mental Health (DMH) indicated that projected revenues from this proposal will total approximately \$351 million.

Section 37(b).6 states that 17.5% of the net proceeds shall be credited to and placed in the Tobacco Use Prevention, Education, and Cessation account. This would equate to \$61.4 million. Section 37(b).7 states that funds deposited in the Tobacco Use Prevention, Education, and Cessation Account shall be appropriated to the DHSS, DPS, and DMH for the sole purpose of funding a comprehensive statewide tobacco control program that is consistent with the CDC’s best practices and guidelines for tobacco control programs and is determined by DHSS to be effective to prevent and reduce tobacco use, reduce the public’s exposure to secondhand smoke, and identify and eliminate disparities related to tobacco use and its effects among different population groups. The petition indicates at least fifteen percent of those moneys shall be appropriated for mass media public education and counter-marketing programs and community programs to reduce tobacco use. The Department assumes a portion of these funds would be appropriated to the Division of Alcohol & Drug Abuse to expand current efforts in providing public education on tobacco use for children and adults, as well as community programs to reduce tobacco use. Depending on the level of funding made available, additional program and administrative staff to expand the efforts in tobacco education to reduce tobacco use may be needed; however, it is difficult to determine the actual number of staff and operating costs until specific funding and programs have been identified.

Section 37(b).8(2) – This section refers to supplemental payments for primary care and specialist physician services rendered to Missouri Medicaid beneficiaries. The Department of Social Services shall establish, to the extent funds are available, a Medicaid physician fee schedule that is comparable to the Medicare physician fee schedule. The DMH does not administer physician services directly, unless this is a component of their program. In regards to the rate, the mental health provider system uses this option, but this is currently administered under Medicaid; therefore, the Department defers to the DSS in identifying a fiscal impact for this section. They will collaborate with the DSS in the establishment of rates for Department-related physician services which impact their clients.

Section 37(b).8(3) –The petition states that moneys deposited in the Health Care Access and Treatment Account shall be appropriated to provide additional funds for the purpose of providing supplemental payments to safety net clinics. Thirteen percent of the moneys (approximately \$37.6 million) shall be appropriated to the DSS for this purpose. The Department assumes the definition of “safety net clinics” includes both the community mental health centers and the Division of Alcohol & Drug Abuse’s Comprehensive Substance Abuse Treatment & Rehabilitation program. The DSS shall calculate the supplemental payment to each safety net clinic based on the number of ambulatory visits provided during the prior twelve month period to uninsured Missourians with annual household incomes that are 200% or less of the federal poverty guidelines. It is assumed that the definition of “ambulatory visit” includes therapists and physicians included in the mental health service delivery system. It is assumed that this definition includes services provided by the community mental health centers and through the CSTAR program. The DMH defers to the DSS for the projected fiscal impact for this section. In addition, please note that the Department assumes a minimal number of additional administrative staff may be needed to administer the requirements of this section.

In addition to the Department of Social Services, some of the funding in the Health Care Access and Treatment Account may need to be appropriated to other departments who also administer Medicaid programs.

Officials from the DSS – Division of Medical Services (DMS) indicated that no additional funding for staff would be needed to administer a smoking cessation program. They also indicated that in order to provide healthcare for Missourians with income less than two hundred percent of federal poverty level, it is anticipated that the additional cost would exceed \$1.2 billion. This \$1.2 billion cost refers to the total cost of medical assistance payments to cover all Missourians with incomes less than 200% of federal poverty level. The actual level of spending will reflect the revenue realized through the increase in the tobacco tax. Additional funding for staff to review and analyze the cost of medical services would be needed to administer each program.

Funds will be appropriated to provide additional funds for the purpose of establishing a physician Medicaid fee schedule that is comparable to the Medicare physician fee schedule. If the physician reimbursements were to reflect 100% Medicare rates, it is anticipated that additional cost of \$268.1 million would be realized. This figure was

derived for the FY06 budget request through calculating the difference between current reimbursement for the physician program and the cost for these services at 100% Medicare rates. Additional funding for staff to analyze and establish a Medicaid fee schedule based on appropriated funds that would be comparable to the Medicare physician fee schedule would be needed.

Funds will be appropriated to provide supplemental payments to safety net clinics for services provided to uninsured Missourians with annual incomes that are 200% or less of federal poverty level. Additional funding for staff to calculate the supplemental payment to each safety net clinic and review annual financial reports submitted by the safety net clinics would be needed.

Funds will be appropriated to provide supplemental payments to trauma centers and hospital emergency departments for services provided to Missouri Medicaid beneficiaries and uninsured Missourians. Additional funding for staff to calculate the supplemental payment to these facilities would be needed.

Funds will be appropriated to provide supplemental payments for emergency ambulance services provided to Missouri Medicaid beneficiaries. Additional funding for staff to calculate the supplemental payment for emergency ambulance services would be needed.

Changes may be needed to the DMS current billing/payment system so that the supplemental payments may be made. Additional funding may be needed for these changes.

The petition states the DSS shall seek approval from the federal government and take all other necessary steps to qualify the payments as eligible for federal financial participation through the Medicaid program. In addition to the staff needed for each program, staff will be needed to research and apply for and maintain a federal waiver. Funding for an actuarial study is also needed.

According to the DSS – Family Support Division (FSD), if this bill is enacted it will increase the Medicaid caseloads of the division. As a result, additional staff will be needed to maintain the additional caseload growth anticipated from the legislation.

The FSD assumes that the DMS will apply a preference with respect to medical programs and services for individuals with medical conditions associated with tobacco use or secondhand smoke.

The division would not see an increase in caseloads to increase Medicaid income guidelines for eligibility for custodial parents up to 200% of the federal poverty level (FPL). Since the division already covers the children of the parents up to 200%, this would only add another individual to the already existing case. The division would need additional caseworkers to cover the increased caseload to increase the income guidelines for the pregnant women, elderly and disabled population up to 200%. It is estimated that the caseloads would grow by 56,392. To cover this increased caseload, based on a

standard of 315 cases per worker for the elderly and disabled population and 270 cases per worker for Pregnant Women, the Division would need an additional 231 staff (180 caseworkers, 18 supervisors, 33 clerical). The division further assumes this funding would come from the tobacco tax revenue.

The DSS – FSD estimates the cost to be \$6,911,206, \$10,219,352, and \$10,481,505 in FY 2007, FY 2008, and FY 2009, respectively.

The initiative petition requires the State Auditor to perform an annual financial audit of the funds and programs established, at an estimated annual cost of \$12,000. It also requires the State Auditor to assess the work and progress of the programs established every three years, at an estimated cost of \$32,000 every three years.

The Governor's Office indicated that the estimated revenues for the proposed tax increase are as follows:

\$ millions	FY 2007 (6 Months)	FY 2008	FY 2009	FY 2010
Cigarette Tax	197.3	397.2	399.8	402.5
Other Tobacco Tax	10.7	22.4	23.5	24.7
Hold Harmless Funds*	(6.2)	(12.6)	(12.7)	(12.8)
Net New Revenues	201.7	407.0	410.7	414.4

* Total loss to hold harmless funds is estimated to be greater than 3%.

The State Treasurer's Office assumes the tax revenue will be collected and deposited by the DOR with all other taxes administered by the DOR. The state accounting system cannot handle sub-accounts, nor can interest be calculated and distributed to a sub-account. Each will have to be set up as separate funds on the state accounting system.

Fiscal Note Summary

Additional taxes of four cents per cigarette and twenty percent of the manufacturer's invoice price on other tobacco products generates an estimated \$351 - \$499 million annually for tobacco control programs, healthcare for low income Missourians, and payments for services provided to Missouri Medicaid beneficiaries and uninsured Missourians. Local governmental fiscal impact is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-07)

Subject

Initiative petition from Ron Calzone regarding a proposed constitutional amendment for Article VI, Section 21, relating to eminent domain, version 2. (Received February 9, 2006)

Date

March 9, 2006

Description

This initiative petition would amend Article VI of the Missouri Constitution by modifying Section 21. Article VI, Section 21, currently permits cities or counties to enact ordinances, providing for the clearance, replanning, reconstruction, redevelopment and rehabilitation of blighted, substandard or insanitary areas, and for recreational and other facilities incidental or appurtenant thereto, and for taking or permitting the taking, by eminent domain, of property for such purposes, and when so taken the fee simple title to the property shall vest in the owner, who may sell or otherwise dispose of the property subject to such restrictions as may be deemed in the public interest.

The initiative petition repeals the section and replaces it with a section that protects property owners from public nuisances. In the event that an owner of property is found by a court of competent jurisdiction to be harboring such nuisance and has not fully abated the nuisance within a reasonable time after final judgment, any political subdivision of the state in which the nuisance exists may expend public funds to abate the nuisance and impose a lien on the offending property limited to an amount equal to the costs of the abatement and reasonable interest on such costs. Enforcement of the lien may be accomplished in the same manner as tax liens are enforced.

The amendment is to be voted on in November, 2006. The effective date of the amendment will be January 1, 2007.

Public comments and other input

The State Auditor's Office received input from the Department of Economic Development, the Office of Administration, the Department of Conservation, the Department of Natural Resources, the Governor's Office, the State Tax Commission, the Department of Transportation, Cole County, Greene County, Jackson County, St. Louis County, the City of Kirkwood, and the City of Columbia.

Assumptions

Officials from the Department of Economic Development indicated the initiative petition would have no fiscal impact on their agency.

Officials from the Office of Administration, responding on behalf of the Governor's Office, indicated this amendment would delete the ability for local governments to automatically clear, replant, reconstruct, redevelop, and rehabilitate any blighted, substandard, or insanitary areas and for taking or permitting the taking by eminent domain, of property for such purposes. This amendment adds new language that will allow local governments to enact laws and ordinances to protect property owners from public nuisances, gives government the right to rectify the nuisances and impose liens to recover costs for abatement of the nuisances. It appears this will have no fiscal impact to the State of Missouri or any of its political subdivisions. However, an argument could be made that prohibiting this option could cost the state or any of its political subdivisions new or expanded revenues, which could fiscally impact future government revenues.

Officials from the Missouri Department of Conservation indicated the vagueness of proposed language could create the ability for local ordinances to create liens on lands deemed to be a public nuisance, regardless if on private or public land. Many Conservation Department activities such as hunting or shooting ranges could fall within a possible determination of nuisance. They question whether the immunity granted to firearm ranges in state statutes would protect in this situation. The possible number of varying regulations statewide is numerous.

Due to the speculative nature of the proposed language, the Department is unable to predict the fiscal impact.

Officials from the Department of Natural Resources indicated a potential effect to all cities, counties and political subdivisions. The Department does not anticipate a significant fiscal impact as a result of this proposal.

Officials from the State Tax Commission indicated the initiative petition would have no fiscal impact on their agency or the county assessor's office.

The Department of Transportation indicated the proposal would have no fiscal impact on their department.

The City of Kirkwood indicated they were unable to determine the fiscal impact. The impact could range from zero to significant.

The State Auditor's Office did not receive a response from Cole County, Greene County, Jackson County, St. Louis County, or the City of Columbia.

Fiscal Note Summary

The fiscal impact to state and local government is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-12)

Subject

Initiative petition from Patrick Tuohey regarding a proposed constitutional amendment for Article I, Section 26, relating to eminent domain, version 2. (Received February 9, 2006)

Date

March 1, 2006

Description

This initiative petition would amend Article I of the Missouri Constitution by modifying Section 26. Private property shall not be taken nor shall the rights to use, sell or possess private property be encumbered nor damaged if, at the time of such taking or interference, the public body taking such action, or its designee, intends to convey any interest in the property to a private party. This would not apply to property used for the distribution of illegal narcotics or an existing condition of the property which is a common law nuisance condition that impairs the use, enjoyment or value of adjoining property, property necessary for transportation, cable television and telecommunication transmission facilities and utility facilities, conveyances by a public body of interests less than fee title to a privately owned business for the incidental provision of retail services in a public facility, or private ways or easements of necessity.

Public use of property shall not include the redevelopment of property by a non-government entity for any commercial use. If the right to use, possess, sell or improve any private property is impaired by any land use regulation or statute, the owner shall be entitled to just compensation for the reduction in the fair market value of such property.

An affected owner may make a written demand for just compensation to the public body enacting the land use regulation or statute up to four years from the effective date of any such law or regulation damaging private property. If the public body does not provide the just compensation, permanent recorded notice of the abandonment of the taking, or other relief acceptable to the property owner within 120 days after receipt of a written demand, the owner shall have a cause of action for just compensation, and shall be entitled to attorney fees, costs, and expenses incurred in the prosecution of the action.

An owner of real property affected by a regulatory taking may seek just compensation, by the application for a permit to use or develop property in a manner consistent with the permissible uses of the property in existence on October 7, 2006 or the date upon which the owner acquired their record title in the property, whichever is later.

The amendment is to be voted on in November, 2006, or at a special election called by the governor. The effective date of the amendment will be January 1, 2007.

Public comments and other input

The State Auditor's Office received input from the Department of Economic Development, the Office of Administration, the Department of Conservation, the Department of Natural Resources, the Governor's Office, the State Tax Commission, the Missouri Highway and Transportation Commission, Cole County, Greene County, Jackson County, St. Louis County, the City of Kirkwood, and the City of Columbia.

Assumptions

Officials from the Department of Economic Development indicated the initiative petition would have no fiscal impact on their office.

According to officials with the Office of Administration, responding on behalf of the Governor's Office, it appears this amendment will restrict powers of eminent domain to elected officials of the State of Missouri or elected officials of any political subdivision of the State of Missouri. Furthermore, this amendment prohibits the taking of property with the intent of conveying any interest in the property to a private party; provides exemption provisions for law enforcement, public utilities, cable companies, and transportation takings; redefines the definition of property for public use to exclude any property used for redevelopment by a non-government entity for any commercial use other than as specified, and includes provisions for just compensation and provisions for compensation resulting from actions that lower the fair market value of property as a regulator taking. This amendment should have no fiscal impact to the state of Missouri or to any political subdivision of the state.

Officials from the Department of Conservation indicated two areas of concern. First, (2)(a) speaks to the "nuisance condition." The vagueness of the proposed language could create the ability for local ordinances to create liens on land deemed to be a public nuisance, regardless if on private or public land. Many Conservation Department activities such as hunting or shooting ranges could fall within a possible determination of nuisance. The Department of Conservation questions whether the immunity granted to firearm ranges in state statutes would protect in this situation. The possible number of varying regulations statewide is numerous. However, the language speaks to private property only.

The second and major area of concern lies in (4). In addition to eminent domain, this section calls for compensation (including attorney fees, costs and expenses) to any private property owner who experiences a reduction in fair market value of their property due to a "land use regulation" as broadly defined in (6). This could mean that any change to the *Wildlife Code* that impacts any property value creates a financial liability to the Conservation department for up to four years. As the Department works to fulfill its mission, situations involving steps to address a disease concern, invasive species or population management issue could arise that cause the Commission to modify or eliminate harvest opportunities at any time. Thus, based on proposed language, changes

in the *Wildlife Code* would now constitute a taking and compensation responsibilities could arise. Proposed language in (5) relating to "public's health and safety" does not appear adequate to cover *Wildlife Code* regulations.

Officials from the Department of Natural Resources indicated they do not anticipate a significant fiscal impact as a result of the proposal.

Officials from the State Tax Commission indicated that the initiative petition would not have a fiscal impact to their agency or the county assessor's office.

Officials from the Missouri Highway and Transportation Commission (MHTC) indicated that if the initiative petition were to pass, MHTC could no longer use eminent domain to acquire private property and convey the real property interest acquired in either fee ownership or lease to a transportation corporation or to a private partner under a public private partnership.

This would eliminate these forms of innovative transportation financing tools for public transportation projects.

Section 26 (4) of the proposal provides that "In addition to any right of compensation provided in the aforementioned provisions of this section, if the right to use, possess, sell or improve any property is impaired by any land use regulation or statute enacted after October 7, 2006 and the date upon which the owner acquires their record title in the property, and such law or regulation reduces the fair market value of the property, the owner shall be entitled to just compensation for the reduction in the fair market value of such property under this section as a regulatory taking." If regulatory takings would include changes in access right of way we already own (crossovers, etc.) or access being denied for safety reasons under police powers the cost to MoDOT would be substantial and fewer projects would be able to be constructed.

The MHTC estimates the fiscal impact to be at least \$100,000 to unknown.

The City of Kirkwood indicated they were unable to provide a fiscal impact because it would depend upon what was being proposed. The impact could range from zero to significant.

The State Auditor's Office did not receive a response from Cole County, Greene County, Jackson County, St. Louis County, or the City of Columbia.

Fiscal Note Summary

The total fiscal impact to state government is unknown, but estimated to exceed \$100,000. The fiscal impact to local government is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-14)

Subject

Initiative petition from Bruce Hillis regarding a proposed constitutional amendment for Article I, Sections 26 and 28, relating to eminent domain, version 2. (Received February 14, 2006)

Date

March 6, 2006

Description

This initiative petition would amend Article I of the Missouri Constitution by modifying Sections 26 and 28. Section 26 would be amended to vest the power of eminent domain in no other than the state, or political subdivisions of the state whose officials are directly responsible to elected officials, and that private property, or the right to the use, sale or enjoyment of private property, shall not be directly or indirectly taken or damaged unless such taking is necessary for a public use and just compensation is rendered.

The value of the property may be determined by appraisal methods typical to the ordinary course of business and any evidence which would be considered by an appraiser in the ordinary course of business shall be relevant and admissible. Until compensation is paid to the owner, and unless a final legal determination of any legal challenges to the taking is rendered, the property shall not be disturbed or the proprietary rights of the owner therein divested.

Section 28 would be amended so that private property taken for private use or private ownership or other private rights shall not be considered a public use and no such takings shall occur, with or without compensation, unless by consent of the owner.

The use for property, or rights in property, shall be declared at the time that such property, or rights in property is taken by eminent domain. If that use is not earnestly or substantially pursued, the original owner, his heirs or assigns shall, after five years but prior to any substantial accomplishment of the declared purpose, be allowed to claim the property back at a price no greater than was paid at the time of taking.

Subject to Section 26, property may be taken for transportation or utility facilities or transmission systems used by a railroad, regulated utility or rural electric cooperative, however the fee of property taken for such purposes without consent of the owner shall remain in such owner subject to the use for which it is taken.

The amendment is to be voted on in November, 2006. The effective date of this amendment shall be November 8, 2006 and the provisions of Article I, sections 26 and 28

apply notwithstanding any application to the contrary of Article VI, Section 21 of the constitution.

Public comments and other input

The State Auditor's Office received input from the Department of Economic Development, the Office of Administration, the Department of Conservation, the Department of Natural Resources, the Governor's Office, the State Tax Commission, the Missouri Highway and Transportation Commission, Cole County, Greene County, Jackson County, St. Louis County, the City of Kirkwood, and the City of Columbia.

Assumptions

According to officials from the Department of Economic Development, the petition will have no fiscal impact.

According to officials with the Office of Administration, responding on behalf of the Governor's Office, Section 26 of this amendment will restrict powers of eminent domain to elected officials of the State of Missouri or elected officials of any political subdivision of the State of Missouri. Furthermore, this amendment provides that property value can be determined by appraisal methods and the property taken cannot be disturbed or property rights divested until compensation has been paid to the owner or to the courts on behalf of the owner. This amendment should have no fiscal impact to the state of Missouri or to any political subdivision of the state.

Section 28 limits the taking of private property for private use, gives exceptions, and makes public use a judicial question. It also refines the term public use. Furthermore this amendment stipulates that for any property taken by eminent domain that is not pursued, the original owners shall have the right to reclaim that property at a price no greater than what was paid at the time of its taking. In addition this amendment prohibits the sale, transfer, or lease of this property to a private entity within 20 years of such taking, unless the original owner, his/her heirs or assigns, have been given the opportunity to repurchase said property at the price it was taken for. It appears this amendment will not have a fiscal impact on the state or any political subdivisions within the state. However, it appears that if any property taken by eminent domain is developed over the 20 year period and said development was accomplished with public funds by the state or any political subdivision within the state that neither government entity would be allowed to recover any of those funds.

This version permits the taking of property for transportation or utility facilities or transmission systems used by a railroad, regulated utility or rural electric cooperative, however the fee of property taken for such purposes without consent of the owner remains with owner or his heirs or assigns. This initiative petition does not use gender neutral language.

According to officials at the Missouri Department of Conservation, there is a potential fiscal impact to the Conservation Department in Section 26. As proposed, this language could be considered in conflict with Article IV, Section 41, which grants eminent domain powers to the Conservation Commission. The proposed section limits the use of eminent domain to "...political subdivisions of the state whose officials are directly responsible to elected officials..." Should one conclude that a Conservation Commission whose members are nominated by the Governor and confirmed by the Senate are not "directly responsible to elected officials," then Section 26, as a later enacted provision, could impact the Commission's ability to exercise eminent domain. This could affect the price of future hypothetical land transactions. The caveat is that the Commission does not utilize this power in the course of business.

The Department of Natural Resources does not anticipate a significant fiscal impact as a result of this proposal.

The State Tax Commission indicated the petition will not impact the Commission or the County Assessor's Offices.

According to Officials from the Missouri Highway and Transportation Commission (MHTC), Section 26 prohibits the direct or indirect taking or damage of private property without payment of just compensation. By adding the word "indirectly" to the concept of a taking of property, the initiative petition would allow the concepts of loss of traffic and loss of visibility from a public highway, for example, to be viewed as separately compensable items for damage claims in inverse condemnation against MHTC. This language is likely to have a significant unknown negative fiscal impact on MHTC/MoDOT.

Section 26 also changes the way property is to be valued for just compensation arising from a condemnation proceeding. Under this initiative petition, the value of the property to be taken by eminent domain shall be determined by appraisal methods typical to acquiring a property through business acquisitions and any evidence that would be considered by an appraiser in the ordinary course of business is relevant and admissible.

Under existing condemnation law, when a condemning entity condemns property, it is only purchasing the land itself, not any appurtenances on the land. This is because the business owners may move their business to a new location and continue in business.

This language will also have a significant, negative unknown fiscal impact on MHTC and MoDOT.

Section 26 is amended to provide that no property shall be divested from the landowner until a final determination of any legal challenges is made. Appellate courts have typically recognized a very limited number of legal challenges against a condemnation petition: (1) fraud; (2) bad faith; or (3) arbitrary and unwarranted abuse of discretion. By allowing any legal challenge to the condemnation petition, this significantly alters the number and types of challenges to a condemnor's petition to condemn, which will

significantly delay the acquisition of property for MHTC's state highway system construction program. Delay of the projects results in a negative fiscal impact, loss of safety benefits from constructing such projects on time, as well as the additional inflation costs for the construction project that arise through such delays.

Section 28 of this initiative petition establishes the general principle that a condemning authority cannot take private property for use by a private party because such a taking is not considered to be a public use. This would eliminate the innovative transportation financing solutions such as Transportation Corporations and public private partnerships.

There is no exception to the private use prohibition for transportation projects, except as it relates to railroads and regulated utilities. Therefore, private property could not be acquired by MHTC and later transferred, even by lease, to a private person for a public use. This provision would result in a negative unknown fiscal impact on MoDOT.

Section 28 also allows the private property owner to reclaim the property acquired by eminent domain five years after the taking for the amount paid by the condemnor if the purpose for which the property was acquired is not substantially accomplished in that time. This language would repeal existing Section 226.955, RSMo, which authorizes a ten-year construction initiation time limit on MHTC corridor acquisitions. This provision would significantly undermine MHTC's authority to do long-range planning and acquire property within a designated highway corridor in advance of design and construction because of the five year time frame to substantially accomplish the project. This language will also have a significant, negative unknown fiscal impact on MHTC and MoDOT.

All of the above provisions would have a negative fiscal impact. MoDOT is unable to provide an estimate, therefore the negative fiscal impact due to this initiative petition is unknown greater than \$100,000.

The City of Kirkwood indicated they were unable to provide a fiscal impact because it would depend upon what was being proposed. The impact could range from zero to significant.

Officials from the City of Columbia indicated the potential for considerable fiscal impact given possible legal interpretations of the proposed constitutional language as written. Depending upon the meaning of "taking" and if the interpretation means that any taking, either "directly or indirectly," will require just compensation, the impact could be great for Columbia. Information as follows and concerns the last five years of data:

Columbia Water & Light has acquired 285 property parcels during this time and most have been acquired without compensation to the property owners. Assuming the City would have to pay for the property owner's appraisals, an average property acquisition of 1,500 sq. ft. (average size of a lot @\$1.00 per sq. ft.) per acquisition and the City's added administrative cost of 20% for not being able to take control of the property pending any

legal determination of legal challenges, approximate and estimated impact would be \$513,000 or greater.

Columbia Public Works has acquired 402 property parcels during this time. Assuming the City would have to pay for the property owner's appraisals, 50 % of the property acquisitions, and the City's added administrative cost of 20% for not being able to take control of the property pending any legal determination of legal challenges, approximate and estimated impact would be \$1,014,900 or greater.

Impact from retaining property in excess of five years without having "earnestly or substantially been pursued" could be great. City purchases property, potentially through eminent domain, that may be set aside for future fire stations, trails or other major public use projects such as a power generation plant. While the original use will not have changed it may not be scheduled out until five years or longer pending funding and prioritization.

The State Auditor's Office did not receive a response from Cole County, Greene County, Jackson County, or St. Louis County.

Fiscal Note Summary

The total fiscal impact to state government is unknown, but estimated to exceed \$100,000. The fiscal impact to local government is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-15)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment for Article VI, Section 21, relating to eminent domain and development of floodplains, wetlands and agricultural land, version 2. (Received February 17, 2006)

Date

March 8, 2006

Description

This initiative petition would amend Article I of the Missouri Constitution by adding Section 21(a). Section 21(a) would state that no city, town, village, county or other political subdivision shall use eminent domain powers to acquire, or to use or allow the use of any economic incentive to acquire, develop or improve any property which is (1) in any 100 year floodplain; (2) wetlands; (3) land which has been used for an agricultural purpose at any time in the last five years. Cities, towns, villages, counties, levee districts and other political subdivisions shall not construct any levee or other flood control structure within the 100 year floodplain, unless at least seventy-five percent of the surface area of such land to be protected by such levee or flood control structure contains structures or streets as of the effective date of this amendment. This section shall not apply to the use of eminent domain for the sole purpose to acquire land for streets and sanitary sewers and the necessary right of way appurtenant thereto, or to the use of economic incentives for development or improvement of agricultural land not in any 100 year floodplain or wetlands, provided that title to such agricultural land is not obtained through the expenditure of any governmental funds or use of any governmental power.

The amendment is to be voted on in November, 2006.

Public comments and other input

The State Auditor's Office received input from the Department of Economic Development, the Office of Administration, the Department of Conservation, the Department of Natural Resources, the Governor's Office, the State Tax Commission, the Missouri Highway and Transportation Commission, Cole County, Greene County, Jackson County, St. Louis County, the City of Kirkwood, and the City of Columbia.

Assumptions

Officials from the Department of Economic Development indicated the petition would have no fiscal impact.

Officials from the Office of Administration – Division of Budget and Planning indicated the petition would have no fiscal impact to the State of Missouri or any of its political subdivisions.

Officials from the Department of Conservation indicated the proposed language causes some concern. While the Department of Conservation has never used, or has plans to use the power of eminent domain, there is language that may affect the department's use and management of wetlands. It states use eminent domain or "use or allow the use of any economic incentive to acquire, develop or improve property which is (1) in any 100 year floodplain... (2) wetlands as defined by the United States government; or (3) land which has been used for any agricultural purpose at any time in the last five years."

The Department of Conservation feels wetlands and farmland are an important part of the management of fish, forest and wildlife resources in the state of Missouri. For these reasons they have strong reservations over the proposed amendment.

The Department of Natural Resources indicated does not anticipate a significant fiscal impact as a result of this proposal.

The State Tax Commission indicated the petition will not have in their department or the County Assessor's Office.

The Missouri Highway and Transportation Commission does not anticipate a direct fiscal impact from this bill. However, this will reduce the effectiveness of certain innovative financing techniques for developing and operating transportation system facilities. Transportation Development Districts (sections 238.200 – 238.299 RSMo) are political subdivisions of the state and would be potentially impacted by the initiative petition.

Officials from St. Louis County indicated there may be some future loss of potential revenue to St. Louis County due to the elimination of economic incentives to assist in the development of properties in the 100-year flood plain.

St. Louis County still has an extensive area of undeveloped land in the flood plain of the Missouri River, most of which is located in the cities of Bridgeton, Hazelwood and Maryland Heights. Were this land to be developed commercially, St. Louis County would receive additional funding through its 58 cents per \$100 assessed value property tax and potentially from our countywide 1-cent sales tax, depending on the type of development.

However, it is not possible to quantify the amount of potential future revenues that may fail to materialize as a result of this petition.

The continuing inclusion of eminent domain powers for streets and sewers is a necessity for St. Louis County; however, the use of eminent domain for economic development in flood plain and agricultural areas is not.

The City of Kirkwood indicated they were unable to provide a fiscal impact because it would depend upon what was being proposed. The impact could range from zero to significant.

Officials from the City of Columbia indicated they did not see a fiscal impact at this time.

The State Auditor's Office did not receive a response from Cole County, Greene County, or Jackson County.

Fiscal Note Summary

The fiscal impact to state and local government is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-16)

Subject

Initiative petition from James Kottmeyer regarding a proposed statutory amendment to Chapter 290 of the Revised Missouri Statutes concerning minimum wage, version 5. (Received February 21, 2006)

Date

March 7, 2006

Description

This initiative petition would amend Chapter 290 of the Revised Statutes of Missouri. Effective January 1, 2007, the petition would require employers to pay wages at the rate of \$6.50 per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

The minimum wage would increase or decrease on January 1, 2008, and on January 1 of successive years, by the increase or decrease in the cost of living. On September 30, 2007, and on each September 30 of each successive year, the director shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index as published by the U. S. Department of Labor or its successor agency, with the amount of the minimum wage increase or decrease rounded to the nearest five cents.

Section 290.505.1 currently requires employers to compensate their employees for a workweek longer than forty hours at a rate of one and one-half the regular rate. The workweek is fifty-two hours per week for employees of an amusement or recreation business. The petition would exclude employees that are exempt from federal minimum wage or overtime requirements from obtaining overtime compensation.

Section 290.507 currently exempts farmers from any minimum wage or overtime requirements. The petition would amend the section to exempt only small farmers from the minimum wage and overtime requirements.

Section 290.517 currently states learners and apprentices shall be paid the same rate or rates set under the provisions of the federal law as the prevailing federal subminimum wage applicable to new workers. The petition would amend the section to pay apprentices and learners not less than 90 cents less than the minimum wage established by sections 290.500 to 290.530, RSMo.

The amendment is to be voted on in November, 2006. The effective date of the amendment will be January 1, 2007.

Public comments and other input

The State Auditor's Office received input from the Attorney General's Office, the Office of Administration, the Department of Agriculture, the Department of Economic Development, the Department of Elementary and Secondary Education, and the Department of Labor and Industrial Relations.

Assumptions

Officials from the Attorney General's office indicated the implementation of the changes would not create a fiscal impact for the office.

Officials from the Office of Administration – Division of Budget and Planning (BAP) indicated this act would place a proposal on the November 2006 ballot to increase the minimum wage required to be paid to specified hourly employees in Missouri. BAP has identified several economic consequences of this proposal which may lead to a direct or indirect fiscal impact on state and local government, including but not limited to the following:

- A. An increase in wages for certain hourly employees, which leads to a direct increase in taxable income.
- B. A potential increase in consumer spending based on increased income, which leads to an indirect increase in taxable sales.
- C. The potential for lower employment, especially at certain firms dependent on low-wage labor.
- D. The potential for decreased business investment by certain firms dependent on low-wage labor.
- E. The potential for inflation, as firms pass on increased labor costs to consumers.
- F. The potential for increased costs for the state, to the extent that the state compensates employees below the proposed levels.

Further, there are current provisions in federal and state statutes that permit employers to pay less than the federal minimum in certain situations. Modifications of these provisions are included in this proposal. However, BAP does not have the requisite data to accurately estimate the current earnings of these employees nor what their earnings may be should any of these proposals be adopted.

According to the report “Characteristics of Minimum Wage Workers: 2004” as published by the United States Bureau of Labor Statistics, April 2005, Table 3, there were 42,000 workers (or roughly 2% of the state’s workforce) employed in Missouri at hourly rates equal to or less than the federal minimum of \$5.15 per hour. For this analysis, BAP

assumes that these workers are earning the current federal minimum, and their wage rates will be increased to the levels proposed.

According to Table 9 of that same report, the average work week for workers earning the federal minimum is an estimated 29 hours. At \$6.50 per hour, the total income gain across the state would be \$85,503,600 in fiscal year 2008.

According to Table 7 of that same report, over 50% of workers in this category are under age 25. BAP assumes that the vast majority of these workers can be claimed as dependents, and that this income is fully taxable at the full 6% rate in statute. For the remaining 50% of these workers who are independent adults, BAP assumes little or none of this income is taxable after standard and other deductions at the state and federal levels are applied. BAP assumes, therefore, that half of the marginal income gain will be taxed at 6%. Based on these assumptions, BAP estimates the total income tax gain to be \$2,565,108 in fiscal year 2008.

Data from the US BLS Consumer Expenditures Survey 2004 suggests that consumers in these income categories spend an estimated 25% of their income on items taxable in Missouri. BAP estimates \$21,375,900 in new spending, and \$903,132 in sales tax increases in fiscal year 2008.

Finally, officials from the Office of Administration, Division of Personnel, estimate increased personal service expenditures of \$70,779 to ensure all state employees are paid at the proposed rate in fiscal year 2008.

Therefore, BAP estimates the fiscal impact of this proposal to be \$3,397,461 in the first full year of implementation. BAP recognizes that, if approved, this proposal goes into effect January 1, 2007. This could translate into some fiscal gains in the second half of FY 2007, depending on the withholding schedules and spending patterns of the employees impacted by this proposal.

The proposed minimum wage is increased each year by a specified inflation index and rounded to the nearest nickel. BAP assumes the inflation rate to be 3% each year. The minimum wage rates would thus be \$6.50, \$6.70, and \$6.90, respectively, for the first three years of the proposal.

Officials from the Department of Agriculture estimate the initiative petition will cost their agency \$50,020 the first year after passage by requiring a minimum wage of \$6.50 per hour to be paid at the Missouri State Fair. Continued unknown cost to the Missouri State Fair as statute change would require cost of living increases/decreases to be added or subtracted to \$6.50 each year beginning in 2008.

Additional FY2008 cost for Missouri State Fair Fund was calculated using actual 2005 fair costs. Since the vote of the people in November 2006 will determine whether or not the initiative passes, no fiscal impact was determined for FY2007. FY2009 fiscal impact could not be determined due to not knowing cost of living percentage as determined by

the Consumer Price Index for Urban Wage Earners and Clerical Workers or successor index as published by the U.S. Dept. of Labor.

Officials from the Department of Economic Development indicated the initiative petition would have no fiscal impact on their office.

Officials from the Department of Elementary and Secondary Education indicated the initiative petition would have no fiscal impact on their office.

According to officials from the Department of Labor and Industrial Relations, this legislation would increase the workload performed by the Department's Division of Labor Standards because of the added language stating the director shall investigate and attempt equitably to adjust controversies between employers and employees as to alleged wage claims. The Department estimates two additional employees will be needed to assist with documenting information given and answering phone calls from constituents. The Department also estimates an increase in the amount of travel required, which is a direct cost from General Revenue monies. The estimated cost is \$71,160, \$86,058, and \$88,247 in FY 2007, FY 2008, and FY 2009, respectively.

	FY08	FY09	FY10
Revenues	\$3,468,240	\$3,982,053	\$4,495,867
Expenditures	(191,959)	(156,837)	(159,026)
Net Fiscal Impact	\$3,276,281	\$3,825,216	\$4,336,841

The SAO assumes this proposal will have an impact on local government; however, due to the large number of political subdivisions, the impact is not quantifiable.

Fiscal Note Summary

The proposed revisions to Missouri's wage rate laws generates an estimated \$3.3 million to \$4.3 million annually in state revenue. The impact on local government is unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-18)

Subject

Initiative petition from David Reardon, Paula Talley and the Elliot Institute regarding a proposed constitutional amendment adding a new section pertaining to the regulation of cloning and human engineering. (Received February 27, 2006)

Date

March 17, 2006

Description

This initiative petition would add a new section to the Missouri Constitution to be known as Regulation of Human-Animal Crossbreeds, Cloning, Transhumansim, and Human Engineering. The initiative petition indicates the use of genetic manipulations for the purpose of human engineering would have a profound effect on the structure and nature of families and society. The biological risks and moral implications of human engineering have not been fully ascertained nor is there a consensus among the public regarding the forms of human engineering, if any, that would best benefit society.

Mistakes in human engineering can cause irreparable injury to individuals which may be propagated throughout the human species risking injury to untold future generations unless the genetically damaged children are forcibly sterilized or killed.

The purpose of this Article is to erect a general prohibition against any genetic alteration of human beings, destructive experiments on human beings, and the artificial creation of life forms containing human genes with exceptions for specific technologies that are hereby specifically approved by the people of Missouri or may in the future be approved by means of amendments to this Article.

Human engineering is a crime against humanity and subject to appropriate criminal penalties that may be defined by the legislature and international law but shall in any case be not less than the penalties provided for aggravated homicide.

Any human being whose gamete material or cells are used for human engineering in violation of this act shall be entitled to the greater of actual damages or \$5,000,000 in statutory damages, plus attorney's fees, and court costs. Any human being whose gamete material or cells are used as allowed in the exceptions, who did not give fully informed and free consent for the use of these cells or gamete materials for said purposes shall be allowed the greater of treble actual damages or \$5,000,000 in statutory, punitive damages, attorneys' fees, and court costs.

Any human being, or his survivors, who was altered by an act of human engineering in violation of this Act shall be allowed the greater of treble actual damages or \$10,000,000

in statutory damages, punitive damages, attorneys' fees, and court costs. In the event that the identity of a human being previously described can not be determined, any natural person may file the suit on behalf of the unidentified human being provided that 10% of any award of damages shall be paid to the person filing the suit and 90% shall be paid to the state's treasury.

The petition does not prohibit therapeutic procedures performed on a nascent human life that is intended to benefit that individual human being by correcting a genetic abnormality prior to birth. It does not prohibit in vitro fertilization with unaltered human gametes wherein the resulting nascent human life is forthwith implanted into the womb of an adult human female with the intention of giving birth to a live born human child.

The petition does not prohibit any therapeutic or experimental treatment performed for benefit of an individual human being using human stem cells extracted in a manner for which there is less than a one percent risk of significant harm to the individual human being from whom the stem cells are extracted. It does not prohibit any therapeutic or experimental treatment performed for benefit of an individual human being using stem cells extracted from a human embryo in the blastula stage or within the first 30 days after cell division or any procedures that may subsequently be defined by the people of Missouri through a constitutional amendment to this section.

Public comments and other input

The State Auditor's Office received input from the Secretary of State's Office, the Attorney General's Office, the Department of Social Services, the Department of Health and Senior Services, the Department of Higher Education, the State Public Defender, the Office of the State Courts Administrator, the Department of Corrections, and the University of Missouri. Representatives from the Missouri Coalition for Lifesaving Cures provided comments regarding this proposal via telephone.

Assumptions

Officials from the Secretary of State's Office indicated the petition does not have any specific cost to the Office other than the cost of newspaper publication in advance of the election that is required should enough valid signatures be collected to result in the issue being placed on the ballot.

The Attorney General's Office (AGO) stated that implementing the proposed initiative petition would not directly affect the office. However, the AGO assumes that because the proposal has the potential to be the subject of litigation, costs are unknown, but are likely to be less than \$100,000.

Officials from the Department of Social Services indicated the petition would have no fiscal impact on their department. The Department does not fund nor perform this type of research.

The Department of Health and Senior Services indicated they would not respond to the petition.

Officials from the Department of Higher Education indicated the petition would have no fiscal impact on their department. However, it may have an impact on higher education institutions with a research related mission.

The State Public Defender indicated the proposed amendment would not have a fiscal impact on the Missouri State Public Defender System.

Officials from the Office of the State Courts Administrator do not anticipate a fiscal impact on the judiciary.

The Department of Corrections (DOC) indicated the need for capital improvements is not anticipated at this time. It must be noted that the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding if the total number of new offenders exceed current planned capacity.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision proved by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the University of Missouri indicated they are unable to determine the fiscal impact, if any, of the initiative petition for proposed constitutional amendment adding a new section pertaining to the regulation of cloning and human engineering.

Fiscal Note Summary

The proposed constitutional amendment would have an estimated annual fiscal impact on state and local government of \$0 - \$100,000.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-19)

Subject

Initiative petition from Patrick Tuohey regarding a proposed constitutional amendment adding a new Article XIV relating to state spending, version 2. (Received March 1, 2006)

Date

March 21, 2006

Description

This initiative petition would add a new Article XIV with subsections to the Missouri Constitution. The initiative petition would prohibit the state, in any fiscal year, from increasing fiscal year spending above the State Spending Limit. The State Spending Limit would include: (i) the total amount of fiscal year spending in the preceding fiscal year increased by a percentage amount equal to the result obtained by adding the percentage change in inflation plus the percentage change in state population from January 1 of the year in which the immediately preceding fiscal year began to January 1 immediately preceding the start of the fiscal year for which the appropriation is to be made or (ii) the State Spending Limit for the previous fiscal year; whichever is greater.

The State Spending Limit calculation for a fiscal year may be increased if the following conditions are met: (a) the decision to increase the State Spending Limit receives approval of a two-thirds vote of each legislative chamber and the approval of a majority of voters casting ballots at a statewide general election; and (b) the maximum total dollar amount of the proposed increase in the State Spending Limit is predetermined legislatively, limited to altering the spending limit for a specific fiscal year and a prominently placed ballot advisory.

Whenever spending limit revenues exceed the State Spending Limit for a fiscal year, the excess revenues not otherwise rebated to taxpayers pursuant to Article 10, Section 18(b), or specifically distributed or reserved by a provision of this constitution shall be designated as "surplus" and assigned to the Emergency Reserve Fund and the Revenue Shortfall Reserve Fund.

Surplus revenues will be deposited into the Emergency Reserve Fund until the fund balance is equal to 3% of the State Spending Limit. Money in the Emergency Reserve fund may be expended only for an emergency declared by law. Appropriation from the fund may only occur upon a three-fourths approval vote of all elected members of each house of the General Assembly. Interest income shall accrue to the fund and unused revenues shall carry forward to the next fiscal year.

After any amount required to be transferred to the Emergency Reserve Fund, any remaining surplus shall be transferred to the Revenue Shortfall Reserve Fund. The amount transferred to the Revenue Shortfall Reserve Fund shall be equal to the lesser of (1) the amount necessary to bring the total of the Revenue Shortfall Reserve Fund to an amount equal to 10% of the State Spending Limit for the ensuing fiscal year, or (2) the amount equal to 50% of any such remaining excess amount of total state revenues. Income earned on the Revenue Shortfall Reserve Fund shall accrue to the fund.

For any fiscal year that commences on or after July 1, 2008, if the total amount of spending limit revenues is less than the amount of the State Spending Limit, the state treasurer may transfer money from the Revenue Shortfall Reserve Fund to the general fund from the available funds in the minimum amounts necessary to offset the shortfall.

Any remaining surplus shall be rebated to those individual taxpayers who have filed personal income tax returns with the state in proportion to the tax liability of all such taxpayers equal to the amount of any remaining surplus. Rebates shall be in the form of checks payable to each taxpayer for any amount not offset by an existing tax liability and exceeding \$25 for the 2007-2008 fiscal year. Any rebate amount not distributed or credited to individuals within 180 days of the end of the fiscal year shall bear interest of 4% per annum above the Federal Funds Rate.

The amendment is to be voted on in November, 2006, or at a special election called by the governor.

Public comments and other input

The State Auditor's Office received input from the Attorney General's Office, the Department of Agriculture, the Department of Higher Education, the Department of Health and Senior Services, the Department of Mental Health, the Department of Mental Health, the Department of Corrections, the Department of Labor and Industrial Relations, the Department of Public Safety, the Department of Social Services, the Governor's Office, the House of Representatives, the Department of Transportation, the Office of Administration, the Public Defender, the Secretary of State, the State Treasurer's Office, Adair County, Rockwood School District, Hannibal 60 School District, the City of Joplin, the City of Wentzville, Linn State Technical College, Metropolitan Community College, and St. Louis Community College.

Assumptions

Officials from the Attorney General's Office indicated the costs associated with implementing the proposed initiative petition can be absorbed with existing resources.

Officials from the Department of Agriculture indicated the fiscal impact of the petition is unknown. There is likely to be less funding available for the operation of department programs in high revenue growth years (compared to current law) and more funding available in low growth years. However, the specific impact is dependent upon economic

conditions in a given fiscal year and future budgetary priorities, both of which are difficult to predict accurately.

Officials from the Department of Higher Education indicated the fiscal impact of the initiative petition to the department is unknown. However, as higher education receives approximately 82 percent of its budget from General Revenue, any limitations placed on these funds or change in the distribution of these funds may negatively impact higher education in Missouri.

Officials from the Department of Health and Senior Services deferred to the Office of Administration for the fiscal impact. The proposal could have significant, far-reaching impacts on the operation of state government and the services it provides. It is impossible to estimate the specific impact on the Department of Health and Senior Services because the proposal pertains to overall state spending. Even if it constrained spending below the level that would have occurred absent the proposal, it would be up to the legislature to choose how to apportion permissible spending amongst departments. The proper way to analyze the proposal is in reference to the overall state spending that would be allowable with and without enactment of this proposal.

Officials from the Department of Mental Health deferred to the Office of Administration for the fiscal impact of the proposed amendment.

Officials from the Department of Natural Resources deferred to the Office of Administration for the fiscal impact of the proposed amendment.

Officials from the Department of Corrections indicated the primary impact would be to the legislative prerogative to determine the level of appropriation of state funds. The fiscal impact to the Department of Corrections would depend upon the collective will of the legislature when appropriating fund. Therefore, the impact is unknown at this time.

Officials from the Department of Labor and Industrial Relations indicated the initiative petition would not have a fiscal impact on their agency. They did express some concerns. Section 3(3)(a) permits expenditures only when an emergency has been declared by law, but does not define who determines the emergency.

The first sentence of Section 3(3)(b) is unclear. Specifically, the Department cannot determine what the phrase "an amount of any remaining surplus" is intended to mean.

Section 3(3)(b)(ii) states the State Treasurer may transfer money from the Revenue Shortfall Reserve Fund in the first sentence and then in the second sentence states "Under no circumstances shall the State Treasurer transfer money..." This appears to be a contradiction.

Officials from the Department of Public Safety indicated they are unable to determine the possible fiscal impact in dollars. They do, however, believe this could curtail their ability

to budget for replacement equipment, cars, program expansion, etc., as this type of item is only budgeted as the need for funding arises.

Officials from the Department of Social Services indicated the fiscal impact to the Department of Social Services cannot be determined because of a number of variables. If the state budget, as determined by the legislature to meet the state's needs, does not exceed the State Spending limit, there is no fiscal impact. Similarly, if the voters approve a budget higher than the State Spending Limit, there would be no fiscal impact. However, if the state's need, as expressed by the budget approved by the legislature, exceeds the State Spending Limit and the voters do not approve of spending in excess of the State Spending Limit, then the budget would have to be reduced to an amount less than the State Sending Limit. In this case, it is impossible to say how funds would be allocated among the various state Departments and functions. It is certainly possible that adequate funds would not be available to continue the existing programs in the Department of Social Services, resulting in a cutback of services.

Officials from the House of Representatives indicated the initiative petition would have no fiscal impact on the agency.

Officials from the Missouri Department of Transportation (MoDOT) indicated the initiative petition would impose some significant state spending limitations on state government, and much like the Hancock Amendment, would have to be determined based on an evaluation of all state revenues from all state funds. As a result, fluctuations between incoming revenues from these various funds could impact whether the state spending limitations are violated; however, it also makes it difficult to determine whether the initiative petition would have any impact on state spending, and the Highway and Transportation Commission/MoDOT spending in particular. Due to the broad language relating to state spending limitations in the petition, the fiscal impact to the Highway and Transportation Commission/MoDOT, if any, cannot be determined. The fiscal impact could be \$0 or a negative unknown.

The Office of Administration (OA), Division of Budget and Planning, calculated the fiscal impact on the proposed initiative petition related to a state spending limit. The proposal would have an impact of a \$280.6 million reduction in state appropriations for fiscal year 2008.

The OA made the following assumptions:

- Section 2(5)-definition of state-did not include [revenue from] institutions of higher education.
- Section 2(8)-definition of spending limit revenues-used the figures for total state revenues as defined in Article X, Sections 16 through 24.
- Section 2(8)(d)-exclusion of certain funds-used the definition determined by the Division of Accounting; used the FY2007 Governor's recommended budgeted amounts from the statewide financial system. OA further assumed that the revenues and expenditures from these funds would be identical.

- Section 2(8)(f)-payments of user charges and fees-estimated the amount from 12 revenue service codes deemed to be user charges or fees. OA further assumed these charges and fees do not exceed the cost of providing the service and the revenues and expenditures from these funds would be identical.
- Section 3(1)-the spending limit was reduced by the same exclusions on the revenue limit:
- Section 3(1)-inflation figures (3.18%) are from the U.S. Census Bureau 2005 consumer price index; population figures (.71%) are from July 1, 2005 estimates provided by the state demographer and do not include military personnel stationed overseas.

The OA did not attempt to project the impact of the proposal for fiscal years 2009 and 2010 because doing so would require a great many estimates of future CPI levels and population statistics making any projections highly subjective.

FY 2007 Total Fiscal Year Spending	
Description	FY2007 Amounts
Total Appropriations – Governor's Recommendation	\$21,081,568,778
Less Federal Funds	7,386,589,710
Less Bond Sale Proceeds	0
Less Debt Service	208,092,250
Less Fund Exclusions	398,634,121
Less Monies Transferred from the Emergency Fund	0
Less Discretionary User Charges or Fees	99,710,746
Less Sale of Government Property to Non-Governmental Entities	506,389
Less Gifts or Bequests	2,832,156
Adjusted Total	\$12,985,203,406
% Change	3.89%
Estimated State Spending for FY2008	\$13,490,327,818
Estimated Spending Limit for FY2008	\$13,209,757,040
Difference	\$280,570,778

Officials from the Office of the State Public Defender indicated it is impossible to determine whether or not this constitutional amendment would have any fiscal impact on the State Public Defender System. There is no guarantee as to the percentage of the whole for any state agency and funding could/would be adjusted.

Officials from the Secretary of State's Office indicated the petition does not have any specific cost to the Office of the Secretary of State other than the cost of newspaper publication in advance of the election that is required should enough valid signatures be collected to result in the issue being placed on the ballot. The Office of the Secretary of State deposits revenue into its funds that would both be counted and excluded from the calculations of the spending and revenue limit. For example, revenues that would be excluded for the Office of the Secretary of State include donations, gifts, and bequests that come to the Wolfner Library Trust Fund. They have contacted the Office of

Administration Division of Budget and Planning and understand that they are calculating the overall limit for the state. They assume that the Office of the Secretary of State would be affected in the same manner as other state agencies for increases or decreases in spending that might be required after the effective date of this act. At this time, the impact of the amendment is unknown and is dependent upon the growth in the economy and many other factors.

Officials from the State Treasurer's Office indicated the petition would have no fiscal impact on their office.

Officials from Adair County indicated any reduction in state revenue coming to Adair County would have an adverse effect. They provided a partial listing of grants and revenue generating programs that affect Adair County. Loss of any of the programs would result in a disservice to the citizens of Adair County.

Officials from Rockwood School District indicated the primary intent of the petition is to impose a state spending limit upon the Missouri State government. The "state" as defined in the petition includes all branches of state government including the offices, authorities, agencies, boards, commissions, institutions, instrumentalities, and any division or unit of state government which are directly supported in whole or in part with tax funds. Obviously the proposed constitutional amendment would include school districts under the terms of this new spending limit.

The limitations established by the petition appear to be relatively similar to the existing Hancock Amendment in that state spending would be limited to the amount of spending in the preceding fiscal year with increases permitted for inflation and the percentage change in state population. It appears that this petition would supersede the ability of local taxpayers to enact locally approved tax increases to meet the needs of local school districts. This appears to be the case because the petition states that the state's spending limit could be increased only upon meeting certain conditions including the approval of two-thirds of each legislative chamber and the approval of a majority of voters at a statewide general election.

The Rockwood School District would be opposed to this initiative petition primarily because it would override the local control provided by our locally elected Board of Education as well as circumventing the ability of the taxpayers in our district to enact additional taxes to meet identified needs. In addition, the expenditure growth in a local school district could substantially vary from the limitations imposed by this petition. Expenditure growth in school districts is primarily driven by the number of students served. Due to demographic changes across the state it is quite possible that the number of students served in Rockwood or by all districts throughout the state could grow at a different rate than the percentage change in the overall state population. Furthermore, inflationary costs in school districts are often substantially different from the change in the Consumer Price Index. About 80% of all school district expenditures are incurred for salaries and benefits. While our salary increases may approximate the rate of inflation, frequently our benefits will increase at a substantially greater rate. Like most businesses,

most school districts have experienced health care cost increases substantially greater than the general inflation rate. School districts are also required to make mandatory contributions to the state established employee retirement systems and these systems have been requiring annual increases in all school districts' contribution rates to meet the actuarial requirements of the statutorily provided benefits (all employees participate in these defined benefit plans). The increase in our school textbook and other instructional materials, natural gas price increases, and diesel fuel costs for our school buses are but three additional examples of areas in which school district costs have substantially exceeded the rate of inflation.

It also appears the amendment would be contrary to the intent of the revised school funding formula as included in SB287 passed by the legislature in 2005. This legislation was passed to attempt to address constitutional concerns related to the adequacy and equity of school funding by increasing and revising the distribution of State aid in support of K-12 public education. By limiting State funding of education, this amendment could undermine the legislature's efforts to adequately fund public education.

Because of the above-described concerns this legislation has the potential to have a significant adverse fiscal impact on the Rockwood School District as well as all school districts across the State of Missouri. School districts need to continue to be locally controlled by locally elected boards of education with local taxpayers retaining the ability to determine the fiscal needs of their districts.

Officials from the Hannibal School District #60 indicated the amendment would take control away from the local educational agency (LEA) which produces the concern that additional dollars will be taken away from the LEA. This is a very "broad" amendment and is therefore hard to calculate exactly how much of a fiscal impact it will have on the school district.

Officials from Linn State Technical College indicated that the true fiscal impact for the College is unknown at this time. They stated that the petition would provide state taxpayers the opportunity to vote on spending limits within State Government and establishes a surplus fund that could be used in times of fiscal crisis in the State of Missouri. The spending limit requirements would cost the State of Missouri millions of dollars to implement. Costs directly related to a statewide general election. The percentage change in inflation and the percentage change in the population may not keep pace with the cost of mandatory increases such as wages, benefits and consumables. Therefore, a continuous need for ballot measures would be necessary to meet the minimum increases. To manage a state spending limit could become quite costly for the state to administer.

Officials from Metropolitan Community College (MCC) used an historical period of growth in funding to estimate the fiscal impact. Between fiscal years 1992-93 to 2000-01, state general revenue growth was about 77%. MCC funding over this period increased approximately 104%. The U.S. City Average Consumer Price Index for All Urban consumers increased only 23%. If this amendment had been in effect during the

period, state funding would have only increased 23% instead of 77%. If that had been the case, then MCC would have only received about 69% of the funding they did receive that year and the peak state aid revenue in 2000-01 would have only been \$24.6 million, instead of the \$35.6 million they did receive, or about \$11.0 million less.

This would have been severe to say the least. In order to compensate for this lost revenue, MCC would have had to increase the average tuition rate by approximately \$32.50 per credit hour, which would have had a drastic impact on enrollment. Since as a community college they are all about access, that solution would have been a non-solution anyway, since they would never increase tuition to those levels to solve a revenue problem of this type.

Officials from the City of Wentzville indicated the fiscal impact is "unknown" at this time.

Officials from the City of Joplin indicated they have several concerns regarding the affect this amendment would have on local and state government. This would certainly create a negative fiscal impact for the City of Joplin, if it would indeed apply to the city. The City of Joplin operates under the "pay as you go" philosophy, ultimately to try to save taxpayers money. It has been our philosophy to build up fund balance for a period and then make large capital purchases at certain times. The city avoids borrowing money to pay for certain items, thereby avoiding interest payments at the expense of taxpayers. So, there are many years that we spend less than we bring in and many years that we spend into fund balance.

Furthermore, they have a philosophical issue with legislatures trying to dictate what the city considers to be accounting rules. The city understands what legislatures are trying to accomplish with this type of legislation. But, the city believes that good internal controls, policies that are written and enforced, and audits can accomplish the same thing. Accounting rules, to a certain degree, address a lot of what legislatures are trying to protect.

These types of constitutional amendments tie the hands of what governments need to accomplish to provide services to its taxpayers. It is costly to have elections. To put in place a mechanism for an election any time that the state spends certain funds is much more detrimental than beneficial.

Officials from St. Louis Community College indicated that the fiscal impact of the petition would be best determined by the Office of Administration. They indicated that 1% reduction in state aid equates to approximately \$440,000 which means that the college would have to cut some services, increase the burden on their students with higher fees, increase the burden on the local property tax payers or a combination of all three actions.

The State Auditor's Office did not receive a response from the Department of Economic Development, the Department of Elementary and Secondary Education, the Department

of Conservation, the Office of the State Courts Administrator, the Senate, Cass County, Taney County, St. Charles County, Cape Girardeau 63 School District, the City of Springfield, and the University of Missouri.

Fiscal Note Summary

The estimated fiscal impact on state government is approximately \$280 million for fiscal year 2008. The impact on state government for future years is unknown. The impact on local government is unknown.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-20)**

Subject

Initiative petition from Steven L. Reed regarding a proposed constitutional amendment modifying Section 36(a) of Article IV relating to economic development. (Received March 15, 2006)

Date

April 4, 2006

Description

Article IV, Section 36(a), currently places the Department of Economic Development in charge of administering all programs provided by law relating to the promotion of the economy of the state, the economic development of the state, trade and business, and other activities and programs impacting on the economy of the state.

This initiative petition would add technology development to the Department of Economic Development's responsibilities. A one year state sales tax of one tenth of one percent will provide additional money for the promotion and development of "Technology Parks" in Missouri. Any city or county in Missouri will be able to apply for a Certified Technology Park or Zone classification from the Department of Economic Development. The sales/use tax would be levied and imposed for the privilege of storing, using or consuming within this state any article of tangible personal property as set forth and provided in the "Compensating Use Tax Law" and, except as to the amount of the tax, subject to the provisions of and to be collected as provided in the "Compensating Tax Law" and subject to the rules and regulations promulgated in connection therewith.

The amendment is to be voted on in November, 2006, or at a special election called by the governor.

Public comments and other input

The State Auditor's Office received input from Department of Economic Development, the Department of Revenue, the Governor's Office, and the Office of Administration.

Assumptions

Officials from the Department of Revenue indicated the petition would not have an administrative impact on the department.

Officials from the Department of Economic Development (DED) indicated the petition would have a fiscal impact on their department. The DED assumes the need for an

Economic Development Incentive Specialist II and an Economic Development Incentive Coordinator plus associated E&E and miscellaneous program costs for printing, mailing, and other costs. The DED is unable to project when the measure may be placed on a ballot and if passed. Costs are based on normal implementation time of August 28 within FY 2007. The DED provided no estimate of the revenue that may be generated by this tax increase.

The DED will have to accept applications for review and approve projects as well as monitor the projects approved. The DED will have to develop application forms and perform other administrative duties associated with this new program.

The DED estimates the petition will cost the department \$158,262 to unknown in FY 2007.

Officials from the Office of Administration (OA) indicated the petition's approval would not result in any costs or savings to the OA or the Governor's Office. Collection costs may be incurred, but OA defers to the Department of Revenue for an estimate of these costs.

There is a statewide impact to the General Revenue Fund. The language in the petition is substantially similar to the language in Article IV Section 47(a)-sales and use tax for soil and water conservation and for state parks. This is a one tenth of one percent retail sales tax. Budget and Planning (B&P) therefore assumes that a similar amount of tax revenue would be collected for economic development purposes.

B&P assumes that if the proposal is approved by voters that it is implemented from January 1, 2007 through December 31, 2007. B&P assumes the sales tax proposed in this petition is in addition to the current state sales taxes provided by law, although the petition is not explicitly clear.

Total revenues from the DNR sales tax in FY 2005 were \$77.2 million. Projected regular sales tax growth rates for FY2006, FY 2007, and FY 2008 are 3.8%, 3.5%, and 3.5%, respectively.

Based on these projected growth rates the revenue from this sales tax would be \$84.4 million for the year it is in effect (\$41.5 million for FY 2007 – January 1, 2007 to June 30, 2007 and \$42.9 million for FY 2008 – July 1, 2007 to December 31, 2007).

Fiscal Note Summary

This proposed constitutional amendment will impose an additional sales tax of one-tenth of one percent for one year. The additional revenues of approximately \$84 million will be used for the promotion and development of Technology Parks in Missouri.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-22r)

Subject

Initiative petition from Steven L. Reed regarding a proposed constitutional amendment modifying Section 17 of Article IV relating to recall of statewide elected officials. (Received April 11, 2006)

Date

May 11, 2006

Description

This initiative petition would amend Section 17 of article IV by adding Section 17(b). Section 17(b) would allow the recall of elective state officers. Recall is the power of the electors to remove an elective officer. Recall of a state officer is initiated by delivering to the Secretary of State a petition alleging reason for recall. Sufficiency of reason is not reviewable. Proponents have 160 days to file signed petitions.

A petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of 5 counties equal in number to 1 percent of the last vote for the office in the county.

The Secretary of State shall maintain a continuous count of the signatures certified to that office. An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures.

A recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at that next regularly scheduled election equal at least 50 percent of all the voters eligible to vote at the recall election.

If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI.

The Legislature shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election. If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or controller, respectively. A state officer who is not recalled shall be

reimbursed by the State for the officer's recall election expenses legally and personally incurred. Another recall may not be initiated against the officer until six months after the election. The Legislature shall provide for recall of local officers.

The amendment is to be voted on in November, 2006, or at a special election called by the governor.

Public comments and other input

The State Auditor's Office received input from the Secretary of State (SOS), the Department of Elementary and Secondary Education (DESE), the Department of Economic Development (DED), the Department of Natural Resources (DNR), the State Treasurer's Office (STO), the Department of Mental Health (DMH), the Office of State Courts Administrator (OSCA), the Missouri Department of Transportation (MoDOT), the Attorney General's Office, the Office of Administration (OA), the Missouri Department of Conservation (MDC), the Department of Health and Senior Services (DHSS), the Department of Public Safety (DPS), the Department of Labor and Industrial Relations (DOLIR), the Department of Higher Education (DHE), the Department of Corrections (DOC), the Department of Social Services (DSS), the Department of Agriculture, the Department of Revenue (DOR), the State Public Defender, the House of Representatives, the Senate, the Governor's Office, the City of West Plains, and Jasper County.

We did not receive a response from the City of Mexico, the City of Union, Callaway County and Clay County.

Assumptions

Officials from the SOS indicated that under this initiative petition, the Secretary of State's Office would be responsible for paying local election authorities pursuant to Section 115.065, RSMo. The state would pay its proportional cost depending upon the date of the election. If the election was consolidated with another previously scheduled election, as envisioned by the petition, the state's cost would be reduced.

An April election, normally held by local election authorities, based on past statewide propositions sent to a vote would cost roughly \$1,250,000.

A statewide election with no standard election date, like the Presidential primary, where the state bears the full cost, would cost roughly \$4,000,000.

August or November elections during even numbered years cost \$0.

Officials from the DESE indicated the petition would have no fiscal impact on the DESE; however, local government election costs could range from zero to unknown.

Officials from the DED indicated the petition would have no fiscal impact on the DED.

Officials from the DNR indicated the petition would not have a direct fiscal impact on the DNR. The DNR did indicate the petition refers to a "comptroller." To their knowledge, the State of Missouri does not have a "comptroller."

Officials from the STO indicated the petition would have no fiscal impact to the STO. However, there is a potential fiscal impact to the State of Missouri in the event that a recall is initiated and the state official manages to maintain their office. The proposed language states, "a state officer who is not recalled shall be reimbursed by the State for the officer's recall election expenses legally and personally incurred." This is tantamount to the state issuing a blank check.

Officials from the DMH indicated the petition would have no fiscal impact on the DMH.

Officials from the OSCA indicated the petition would have no fiscal impact on the judiciary.

Officials from the MoDOT indicated the petition would have no fiscal impact on their department.

Officials from the Attorney General's Office indicated the petition would have no fiscal impact on the Attorney General's Office.

Officials from the OA, on behalf of the Governor's Office, indicated approval of this petition would not result in any costs or savings to the OA or the Governor's Office. The OA defers to the SOS to determine the costs of a recall election. The OA defers to the General Assembly to determine its costs of providing for the recall election, including the circulation, filing and certification of petitions. The OA assumes reimbursements of personal and legal expenses of an officer not recalled will be in excess of \$100,000 and could be a significant cost to the state's general revenue fund.

The OA also noted that the petition contains a reference to subdivision (d) of Section 16 of Article VI, which does not exist in the Missouri Constitution.

Officials from the MDC indicated the petition would have no fiscal impact on the MDC.

Officials from the DHSS indicated they would not be responding since the petition has nothing to do with the DHSS.

Officials from the DPS indicated the petition would have no fiscal impact on the DPS.

Officials from the DOLIR indicated the petition would have no fiscal impact on their department. The DOLIR did indicate that there is no subdivision (d) of section 16 of Article VI. Also, the petition refers to a "comptroller." The state does not have a comptroller.

Officials from the DHE indicated the petition would have no fiscal impact on the DHE.

Officials from the DOC indicated the petition would have no fiscal impact on the DOC.

Officials from the DSS indicated the petition would have no fiscal impact on the DSS.

Officials from the Department of Agriculture indicated the petition would have no fiscal impact on their department.

Officials from the DOR indicated the petition would have no administrative impact on the department.

Officials from the State Public Defender's Office indicated the petition would have no fiscal impact on their Office.

Officials from the House of Representatives indicated the petition would have no fiscal impact on the House.

Officials from the Senate indicated that assuming the intent of the proposal is for the Legislature to establish procedures to fulfill the requirements of the proposal via legislation, there would be no fiscal impact as it relates to their agency or minimal expenses which could be absorbed by current appropriations.

Officials from the City of West Plains indicated the petition would have no fiscal impact.

Officials from Jasper County indicated that if the State of Missouri will pay for all petition certification and recall election costs for both state and local recall issues, then there is no cost to local government, but the process could increase the work load of the County Clerk and his staff over and beyond their regular duties.

Fiscal Note Summary

Election costs to state government are contingent upon submission of recall petitions and the timing of resulting elections, and could range from zero to four million dollars. Additional costs may be incurred if state officers prevail in such elections. Such costs may exceed \$100,000. Any costs to local governments are unknown.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-23)

Subject

House Joint Resolution No. 55 submitting to the voters a constitutional amendment relating to public officials. (Received June 7, 2006)

Date

June 27, 2006

Description

This proposal would amend Section 3 of article XIII by amending Section 3.8 and adding Sections 3.12 and 3.13. Section 3.8 would be amended to require a two-thirds majority vote of the general assembly to disapprove the schedule of compensation filled by the compensation commission.

Section 3.12 would disqualify any public official from receiving a pension from the state of Missouri if they are convicted of a felony which occurred while in office or who has been removed from office for misconduct or following impeachment.

Section 3.13 would require compensation schedules filed after the effective date of this subsection to take effect January 1, 2009.

The amendment is to be voted on in November, 2006, or at a special election called by the governor.

Public comments and other input

The State Auditor's Office received input from the Secretary of State (SOS), the Department of Economic Development (DED), the State Treasurer's Office (STO), the Department of Mental Health (DMH), the Office of State Courts Administrator (OSCA), the Missouri Department of Transportation (MoDOT), the Office of Administration (OA), the Department of Health and Senior Services (DHSS), the Department of Public Safety (DPS), the Department of Higher Education (DHE), the Department of Corrections (DOC), the Department of Social Services (DSS), the Department of Agriculture, the Department of Revenue (DOR), the House of Representatives, the Senate, the Governor's Office, the State Tax Commission (STC), the Missouri Department of Conservation (MDC), the Department of Natural Resources (DNR), the Department of Elementary and Secondary Education (DESE), the Attorney General's Office, Adair County, Taney County, the City of Wentzville, Hannibal School District #60, Linn State Technical College, Metro Community College, the University of Missouri, and St. Louis Community College.

The State Auditor's Office did not receive a response from the Department of Labor and Industrial Relations (DOLIR), the State Public Defender, Callaway County, Cass County, Clay County, St. Charles County, the City of Joplin, the City of Springfield, the Cape Girardeau School District, or the Rockwood School District.

Assumptions

Officials from the SOS indicated they are required to pay for publishing in local newspapers the full text of each statewide ballot measures as directed by Article XII, Section 2(b) of the Missouri constitution and Section 116.230-116.290, RSMo. The SOS's Office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session and likely initiative petitions that are certified for the ballot. In the FY 2007 budget approved by the Missouri General Assembly a total of \$1.6 million has been provided to meet these requirements and they assume the Governor will approve this when he signs the appropriations bill. The appropriation is an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. Therefore, the SOS's Office should have the full appropriation authority it needs in FY 2007 to meet the publishing requirements of the proposal. There will not be any other costs for the SOS.

Officials from the DED indicated the proposal would have no fiscal impact on the department.

Officials from the STO indicated the proposal would have no fiscal impact on the department.

Officials from the DMH indicated the proposal would have no fiscal impact on the department.

Officials from the OSCA indicated they are unable to provide a possible impact of the proposal.

Officials from the MoDOT indicated the proposal would have no fiscal impact on the department.

Officials from the OA, on behalf of the Governor's Office, indicated the proposal would have no fiscal impact on their offices.

Officials from the DHSS indicated the proposal would have no fiscal impact to the department.

Officials from the DPS indicated the proposal would have no fiscal impact to the department.

Officials from the DHE indicated the proposal would have no fiscal impact on the department.

Officials from the DOC indicated the proposal would have no fiscal impact on the department.

Officials from the DSS indicated the proposal would have no fiscal impact to the department.

Officials from the Department of Agriculture indicated the proposal would have no fiscal impact on the department.

Officials from the DOR indicated the proposal would have no fiscal impact to the department.

Officials from the House of Representatives indicated the proposal would have no fiscal impact to the House.

Officials from the Senate indicated the proposal would have no fiscal impact to the agency.

Officials from the STC indicated the proposal would have no fiscal impact on the commission.

Officials from the MDC indicated the proposal would have no fiscal impact on the department.

Officials from the DNR indicated the proposal would have no direct fiscal impact on the department.

Officials from the DESE indicated the proposal would have no fiscal impact on the department.

Officials from the Attorney General's Office indicated the costs can be absorbed with existing resources.

Officials from Adair County indicated the proposal would have no fiscal impact to the county.

Officials from Taney County indicated the proposal would have no fiscal impact to the county.

Officials from the City of Wentzville indicated they see no direct fiscal impact to the city.

Officials from Hannibal School District #60 indicated the proposal would have no fiscal impact to the district.

Officials from Linn State Technical College indicated the true fiscal impact is unknown. They did explain that providing a penalty for public officials who are convicted while in office would save taxpayers.

Officials from Metro Community College of Kansas City indicated the proposal would have no fiscal impact on the college.

Officials from the University of Missouri indicated the proposal would have no fiscal impact on the university.

Officials from St. Louis Community College indicated the proposal would have no fiscal impact on the college.

Fiscal Note Summary

It is estimated this proposal will have no costs to state or local governments.

MISSOURI STATE AUDITOR'S OFFICE

FISCAL NOTE (06-24)

Subject

Senate Joint Resolution No. 26 submitting to the voters a constitutional amendment relating to veterans' organizations. (Received June 7, 2006)

Date

June 27, 2006

Description

This proposal would amend Section 6 of article X by adding veterans' organizations to those organizations exempt from taxation.

The amendment is to be voted on in November, 2006, or at a special election called by the governor.

Public comments and other input

The State Auditor's Office received input from the Secretary of State (SOS), the Department of Economic Development (DED), the State Treasurer's Office (STO), the Department of Mental Health (DMH), the Office of State Courts Administrator (OSCA), the Missouri Department of Transportation (MoDOT), the Office of Administration (OA), the Department of Health and Senior Services (DHSS), the Department of Public Safety (DPS), the Department of Labor and Industrial Relations (DOLIR), the Department of Higher Education (DHE), the Department of Corrections (DOC), the Department of Agriculture, the Department of Revenue (DOR), the House of Representatives, the Senate, the Governor's Office, the State Tax Commission (STC), the Missouri Department of Conservation (MDC), the Department of Elementary and Secondary Education (DESE), the Attorney General's Office, the Department of Social Services (DSS), the Department of Natural Resources, St. Charles County, Taney County, the City of Wentzville, Hannibal School District #60, Rockwood School District, Linn State Technical College, Metro Community College, the University of Missouri, and St. Louis Community College.

The State Auditor's Office did not receive a response from the State Public Defender, Adair County, Callaway County, Cass County, Clay County, the City of Joplin, the City of Springfield, or the Cape Girardeau School District.

Assumptions

Officials from the SOS indicated they are required to pay for publishing in local newspapers the full text of each statewide ballot measures as directed by Article XII,

Section 2(b) of the Missouri constitution and Section 116.230-116.290, RSMo. The SOS's Office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session and likely initiative petitions that are certified for the ballot. In the FY 2007 budget approved by the Missouri General Assembly a total of \$1.6 million has been provided to meet these requirements and they assume the Governor will approve this when he signs the appropriations bill. The appropriation is an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. Therefore, the SOS's Office should have the full appropriation authority it needs in FY 2007 to meet the publishing requirements of the proposal. There will not be any other costs for the SOS.

Officials from the DED indicated the proposal would have no fiscal or administrative impact on the department.

Officials from the STO indicated the proposal would have no fiscal impact on the department.

Officials from the DMH indicated the proposal would have no fiscal impact on the department.

Officials from the OSCA indicated the proposal would have no fiscal impact on the judiciary.

Officials from the MoDOT indicated the proposal would have no fiscal impact on the department.

Officials from the OA indicated the proposal should not result in additional costs or savings to the Governor's Office or the OA. The OA's Division of Budget and Planning (B&P) assumes the proposal would reduce tax revenues for political subdivisions which could affect local funding to public school districts. B&P defers to the STC and the DESE for an estimate. B&P assumes this proposal would reduce revenues to the Blind Pension Fund. B&P defers to the DSS for an estimate.

Officials from the DHSS indicated the proposal would have no fiscal impact on the department.

Officials from the DPS indicated the proposal would have no fiscal impact on the department.

Officials from the DOLIR indicated the proposal would have no fiscal impact on the department.

Officials from the DHE indicated the impact of the joint resolution is unknown. Community colleges have local taxing districts which through property taxes provide

roughly one-third of their operating revenue. Any reduction to the property tax based may negatively impact these higher education institutions.

Officials from the DOC indicated the proposal would have no fiscal impact on the department.

Officials from the Department of Agriculture indicated the proposal would have no fiscal impact on the department.

Officials from the DOR indicated the proposal would have no fiscal impact on the department.

Officials from the House of Representatives indicated the proposal would have no fiscal impact on the House.

Officials from the Senate indicated the proposal would have no fiscal impact on the Senate.

Officials from the STC indicated the proposal would not have a fiscal impact on the department. However, the local political subdivisions may be impacted. The STC believes many counties currently exempt this type of property from local taxes. However, any county currently assessing taxes on these organizations would be impacted by this amendment with a revenue loss.

Section 137.101.1. RSMo. states...The activities of nationally affiliated fraternal, benevolent, veteran, or service organizations which promote good citizenship, humanitarian activities, or improve the physical, mental, and moral condition of an indefinite number of people or purposes purely charitable within the meaning of subsection 1 of section 6 of article X of the constitution and local assessing authorities may exempt such portion of the real and personal property of such organizations as the assessing authority may determine is utilized in purposes purely charitable from the assessment, levy and collection of taxes.

Many local political subdivisions treat all the property owned by these organizations as charitable and do not assess any taxes. However, some political subdivisions will only exempt that portion of the property they believe to be used for charitable purposes and will assess property taxes on the rest.

The STC does not have any information or data on what the total assessed value for veteran's organization might be in the state of Missouri.

The STC conducted a telephone survey with numerous counties regarding the question of taxing property owned by veteran's organizations. Only one of the seventeen first-class counties the STC contacted confirmed they assess taxes on a portion of the property owned by veteran organizations. (The STC believes there may be one other first-class county that assesses taxes on a portion of the property owned by veteran's organizations.)

Of the six second-class counties and fourteen third-class counties the STC contacted, only one county assessed tax on such property. The City of St. Louis does not tax such property.

After further review, the STC estimated the assessed value for all property owned by veterans' organizations which is currently being taxed is \$500,000. Assuming the average state-wide tax rate is \$6.15 per hundred dollars of assessed valuation, the potential loss of revenue would be \$30,750.

Officials from the MDC indicated the proposal would have no fiscal impact on the department.

Officials from the DESE indicated they cannot estimate the impact resulting from the exemption of veterans' organizations' property, real and personal taxes from taxation. They defer to the STC. However, a reduction in tax revenue represents a reduction in general revenue available to distribute to local school districts.

Officials from the Attorney General's Office indicated the proposal would have no fiscal impact on the department.

Officials from the DSS indicated the proposal would have no fiscal impact on the department. This bill would result in a loss to the Blind Pension Fund of three cents on every \$100 valuation of taxable property that would be exempted. Currently, nearly all counties already exempt veterans' organizations from paying personal property tax, therefore, any fiscal impact to the Blind Pension fund is expected to be minimal.

Officials from the DNR indicated the proposal would have no fiscal impact on the department.

Officials from St. Charles County indicated the proposal would have a minimal fiscal impact, if any.

Officials from Taney County indicated the proposal would have no fiscal impact on the county.

Officials from the City of Wentzville indicated making veterans' organizations tax exempt would have minimal effect, less than \$500/year on the city.

Officials from Hannibal School District #60 indicated the proposal would have no fiscal impact on the district.

Officials from the Rockwood School District indicated they relied upon information provided by others including members of the St. Louis County Department of Revenue Office to estimate the fiscal impact.

In order to estimate the fiscal impact, it was necessary to make certain reasonable assumptions including:

- Information related to average tax rates for St. Louis county properties and the amount of such property held on a statewide basis would be proportional to the overall assessed value of such properties in St. Louis County.
- Average tax rates on a statewide basis would be similar. (In reality, average tax rates on a statewide basis are probably somewhat lower than St. Louis County averages, and there is no way of easily determining that the percentage of property owned by veterans' organizations on a statewide basis is similar to such percentage in St. Louis County.)
- Taxing jurisdictions would not be able to increase or roll up their tax rates as a result of this reduced assessed value. (Clearly this is a "worse case" assumption as certain taxing jurisdictions in certain situations may be able to adjust their tax rate to be compensated for this loss of revenue.)

According to St. Louis County, the total real and personal property assessed value of property held by veterans' organizations in St. Louis County totals \$562,750. Multiplying this assessed value by the overall average tax rate for St. Louis County for 2004 of \$8.1684 yields total revenue provided by these organizations in St. Louis County of \$45,968.

For year ending December 31, 2005, according to the 60th Annual Report of the Proceedings of the State Tax Commission (page 295), total locally assessed value for the State of Missouri was \$78,913,491,098 and for St. Louis County, \$20,750,912,130. Therefore, St. Louis County represents 26.3% of the State of Missouri's locally assessed value. Dividing \$45,968 by .263 yields an estimated statewide revenue impact of \$174,783. (Given the STC's knowledge in this area, the SAO accepts their evaluation of total local impact and will rely on their estimates.)

Subject to the above-described assumptions and limitations, Rockwood School District believes this represents a reasonable estimate of the fiscal impact of Senate Joint Resolution 26.

Officials from Linn State Technical College indicated the impact of the proposal is unknown. While the proposal provides tax exemption to veterans' organizations potentially providing additional dollars available to the organization, it eliminates potential tax revenue for the state.

Officials from Metro Community College in Kansas City indicated the proposal would have no fiscal impact on the college.

Officials from the University of Missouri indicated the proposal would have no fiscal impact on the university.

Officials from St. Louis Community College indicated the proposal would have an insignificant impact on the college.

Fiscal Note Summary

It is estimated this proposal will have a minimal cost to state government. The estimated costs to local governmental entities range from zero to approximately \$45,000.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-25)

Subject

Referendum petition by the Missouri Election Reform Project, Inc. submitting to the voters a proposed referendum to House Bill 1900 pertaining to campaign finance. (Received June 19, 2006)

Date

July 7, 2006

Description

This proposal would add the definition of "elected local government official lobbyist" to be any natural person employed specifically for the purpose of attempting to influence any action by a local government official elected in a county, city, town, or village with an annual operating budget of over ten million dollars. It also adds elected local government official lobbyist to the definition of "lobbyist".

The petition would require each lobbyist to file standardized registration forms no later than January fifth of each year or five days after beginning any activities as a lobbyist. Lobbyists would be required to disclose the time, venue, and nature of any entertainment expenditures they incur on a monthly basis. They must also disclose the total of all expenditures by the lobbyist or his or her lobbyist principals made on behalf of all elected local government officials, their staff and employees, and their spouses and children. Such expenditures should be separated into at least the following categories: printing and publication expenses; media and other advertising expenses; travel; the time, venue, and nature of any entertainment; honoraria; meals; food and beverage; and gifts.

A lobbyist must disclose all expenditures made by the lobbyist or lobbyist principal for occasions and the identity of the group invited, the date and description of the occasion and the amount of the expenditure for each occasion when all members of a caucus of the majority party of the house of representatives, minority party of the house of representatives, majority party of the senate, or minority party of the senate are invited.

No expenditure would be made on behalf of a state senator or state representative, or such public official's staff, employees, spouse, or dependent children for travel or lodging outside the state of Missouri unless such travel or lodging was approved prior to the date of the expenditure by the administration and accounts committee of the house or the administration committee of the senate.

Each person required to file a financial interest statement would disclose the name and address of each campaign committee, political committee, candidate committee, or

continuing committee for which such person or any corporation listed on such person's financial interest statement received payment.

The commission shall receive all complaints alleging violations of the requirements imposed on lobbyists or the financial interest disclosure requirements. Within five days after receipt of a complaint by the commission, a copy of the complaint, including the name of the complainant, shall be delivered to the alleged violator. If the commission finds that any complaint is frivolous in nature or finds no probable cause to believe that there has been a violation, the commission would dismiss the case. Frivolous would mean a complaint clearly lacking any basis in fact or law. Any person who submits a frivolous complaint shall be liable for actual and compensatory damages to the alleged violator for holding the alleged violator before the public in a false light. If the commission finds that a complaint is frivolous or that there is not probable cause to believe there has been a violation, the commission would issue a public report to the complainant and the alleged violator stating with particularity its reasons for dismissal of the complaint. Upon such issuance, the complaint and all materials relating to the complaint shall be a public record.

All investigations by the executive director shall be limited to the information contained in the reports or statements. The commission shall notify the complainant or the person under investigation, by registered mail, within five days of the decision to conduct such investigation.

Any person who would file as a candidate for election to a public office would be disqualified from participation in the election for which the candidate filed if such person is delinquent in the payment of any state income taxes, personal property taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state.

Each potential candidate for election to a public office would file an affidavit with the department of revenue and include a copy of the affidavit with the declaration of candidacy.

Upon receipt of a complaint alleging a delinquency of the candidate in the filing or payment of any state income taxes, personal property taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state, the department of revenue would investigate such potential candidate to verify the claim contained in the complaint. If the department of revenue finds a positive affirmation to be false, the department would contact the secretary of state, or the election official who accepted such candidate's declaration of candidacy, and potential candidate. The department would notify the candidate of the outstanding tax owed and give the candidate thirty days to remit any such outstanding taxes owed which are not the subject of dispute between the department and the candidate. If the candidate fails to remit such amounts in full within thirty days, the candidate shall be disqualified from participating in the current election

and barred from refilling for an entire election cycle even if the individual pays all of the outstanding taxes that were the subject of the complaint.

No person would qualify as a candidate for elective public office in the state of Missouri who has been convicted of or found guilty of or pled guilty to a felony under the laws of the state.

No member of or candidate for the general assembly shall form a candidate committee for the office of speaker of the house of representatives or president pro tem of the senate.

Monetary contributions shall not be made from any political party committee to any candidate committee, continuing committee, or political party committee. Nothing in this section would be construed to limit any candidate committee from making contributions to any other committee.

Any candidate for the office of state representative, the office of state senator, or a statewide elected office would not accept any contributions from the Wednesday after the first Monday in January through the first Friday after the second Monday of May of each year at 6:00 p.m. Only candidates for special election to the house of representatives, senate, or statewide elected office may during such time, accept contributions from the date of the candidate's nomination by his or her respective party until thirty days after the date of the election.

The Missouri ethics commission would post on its website, in an easily accessible and conspicuous manner, a listing organized by candidate showing all expenditures required to be disclosed, made in support of and against each candidate, together with the date and amount of each expenditure. The commission would post each expenditure within seven days of notification of the expenditure. The list underlying each candidate would be further organized into the following two categories: 1) expenditures in support of the candidate; and 2) expenditures in opposition to the candidate.

Each candidate for the office of state representative, state senator, and for statewide elected office would file all disclosure reports electronically with the Missouri ethics commission. The Missouri ethics commission would promulgate rules establishing the standard for electronic filings with the commission and would propose such rules for the importation of files to the reporting program.

Any natural person may file a complaint with the Missouri ethics commission alleging failure to timely or accurately file a personal financial disclosure statement, a campaign finance disclosure report, or a violation of the provisions of Chapter 130, RSMo, by any candidate for elective office, within sixty days prior to the primary election at which the candidate is running for office, until after the general election. No complaint would be accepted by the commission within fifteen days prior to the primary or general election at which such candidate is running for office.

The ethics commission would study methods to improve the regulation of persons and organizations that conduct or utilize political telephone solicitations. The commission would issue a report containing recommendations to the general assembly no later than January 1, 2007.

The amendment is to be voted on in November, 2006, unless the general assembly shall designate another date.

Public comments and other input

The State Auditor's Office received input from the Secretary of State (SOS), the Department of Economic Development (DED), the State Treasurer's Office (STO), the Department of Mental Health (DMH), the Office of State Courts Administrator (OSCA), the Office of Administration (OA), the Department of Health and Senior Services (DHSS), the Department of Public Safety (DPS), the Department of Labor and Industrial Relations (DOLIR), the Department of Higher Education (DHE), the Department of Corrections (DOC), the Department of Agriculture, the Senate, the Governor's Office, the State Tax Commission (STC), the Missouri Department of Conservation (MDC), the Department of Elementary and Secondary Education (DESE), the Attorney General's Office, the Department of Social Services (DSS), the Department of Natural Resources (DNR), Taney County, Clay County, Adair County, the City of Wentzville, the City of Joplin, Rockwood School District, Linn State Technical College, Metro Community College, the University of Missouri, and St. Louis Community College.

The State Auditor's Office did not receive a response from the Missouri Department of Transportation (MoDOT), the Department of Revenue (DOR), the House of Representatives, the State Public Defender, Callaway County, Cass County, St. Charles County, the City of Springfield, Hannibal School District #60, or the Cape Girardeau School District.

Assumptions

Officials from the SOS indicated they are required to pay for publishing in local newspapers the full text of each statewide ballot measures as directed by Article XII, Section 2(b) of the Missouri constitution and Section 116.230-116.290, RSMo. The SOS's Office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session and likely initiative petitions that are certified for the ballot. In the FY 2007 budget approved by the Missouri General Assembly a total of \$1.6 million has been provided to meet these requirements and they assume the Governor will approve this when he signs the appropriations bill. The appropriation is an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. Therefore, the SOS's Office should have the full appropriation authority it needs in FY 2007 to meet the publishing requirements for this referendum. The referendum will not have any other costs for the Office of the Secretary of State.

Officials from the DED indicated the proposal would have no fiscal impact on the department.

Officials from the STO indicated the proposal would have no fiscal impact on the department.

Officials from the DMH indicated the proposal would have no fiscal impact on the department.

Officials from the OSCA indicated the proposal would not have any fiscal impact on the judiciary.

Officials from the OA indicated the proposal should not result in additional costs or savings to the Governor's Office or the Office of Administration. House Bill 1900 changes the \$10 filing fee from a one-time to an annual payment and includes an elected local government official lobbyist in the definitions to which the law applies. According to the Missouri Ethics Commission there are approximately 1,000 registered lobbyists. Therefore, the \$10 filing fee would generate an estimated \$10,000 annually to the state's General Revenue Fund. If the referendum repealing the provisions of House Bill 1900 is passed by the voters, a reduction of \$10,000 is estimated to the state's General Revenue Fund.

Officials from the DHSS indicated the proposal would have no fiscal impact on the department.

Officials from the DPS indicated the proposal will have no fiscal impact on the department

Officials from the DOLIR indicated the proposal would have no fiscal impact on the department.

Officials from the DHE indicated the proposal would have no fiscal impact on the department.

Officials from the DOC indicated the proposal would have no fiscal impact on the department.

Officials from the Department of Agriculture indicated the proposal would have no fiscal impact on the department.

Officials from the DOR indicated the proposal

Officials from the House of Representatives indicated the proposal

Officials from the Senate indicated the proposal would have no fiscal impact as it relates to the Senate.

Officials from the STC indicated the proposal would have no fiscal impact on the agency.

Officials from the MDC indicated the proposal would have no fiscal impact on the department.

Officials from the DESE indicated the proposal would have no fiscal impact on the department.

Officials from the Attorney General's Office indicated that any potential costs arising from the proposal can be absorbed with existing resources.

Officials from the DSS indicated the proposal would have no fiscal impact on the department.

Officials from the DNR indicated they do not anticipate any significant direct fiscal impact.

Officials from Taney County indicated the proposal would have minimal or no financial impact on the county.

Officials from Clay County indicated the proposal would have no fiscal impact on the county.

Officials from Adair County indicated the proposal would have no fiscal impact on the county.

Officials from the City of Wentzville indicated they do not anticipate any material impact.

Officials from the City of Joplin indicated the proposal would have no fiscal impact on the city.

Officials from the Rockwood School District indicated the fiscal impact of the proposal would be minimal. The only provision noted that would potentially have a fiscal impact upon Rockwood School District or any other school district relates to the requirement that candidates for election to a public office must file affirming that they are not delinquent in the payment of any real or personal property taxes. Hopefully the amount of any such delinquent taxes by anyone filing for public office would be minimal.

Officials from Linn State Technical College indicated that while the true fiscal impact for Linn State Technical College is unknown at this time, based on the information presented, there appears to be no fiscal impact.

Officials from Metro Community College in Kansas City indicated the proposal would have no fiscal impact on the college.

Officials from the University of Missouri indicated the proposal would have no identifiable fiscal impact on the university.

Officials from St. Louis Community College indicated they could not determine any fiscal impact.

Fiscal Note Summary

It is estimated this proposal will have no costs or savings to state or local governments. However, it is estimated the proposal will generate additional lobbyist filing fees of \$10,000 annually into the state general revenue fund.